

## Chapter 342

### ALCOHOL-RELATED TRAFFIC OFFENSES

Cross Reference — As to reimbursement of certain costs related to arrest under this chapter, §135.250(9).

#### 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.

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

<sup>2</sup>. Note — As to provisions concerning sentencing and suspended imposition of sentence under certain conditions, §577.012, 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 577.019 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. Possession and Transportation of Open Containers Prohibited.** [R.O. 2012 §340.350; CC 1979 §3-50; Ord. No. A-5035 §1-3, 9-13-1988; Ord. No. A-6960, 6-30-2000; Ord. No. 7324 §§1 — 2, 6-26-2003]

- A. It shall be unlawful for any person to have any open container containing alcoholic beverage in or upon City property or in or on public streets, sidewalks, driveways, parking lots or thoroughfares within the City.
- B. "*Open container*" shall mean any container containing an alcoholic beverage, which container is not completely sealed by the original seal of a licensed manufacturer of the beverage.
- C. The term "*have any open container*" includes having such container on or about one's person or within a vehicle, other than within the closed trunk of such vehicle, which that person has under his/her control.
- D. The term "*alcoholic*", as used in this Section, shall mean and include any beverage containing ethyl alcohol. The term "*beverage*" shall mean and include all fluids of a type primarily designed and manufactured for ingestion in liquid form. The term "*alcoholic beverage*" shall not include unadulterated non-prescription medicinal preparations prepared by a licensed manufacturer of medicinal preparations or prescription medications prepared by a licensed pharmacist.
- E. 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 having ready access to such alcoholic beverage.
- F. Nothing in this Section shall be construed as to prohibit the otherwise legal possession of open containers of alcoholic beverages where consumption thereof is permitted by Section 215.2300 of this Code.