

TITLE 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Driver License Bureau Rules

12 CSR 10-24.030 Hearings

PURPOSE: This rule sets forth the procedures used by the director in holding hearings following the suspension or revocation of a person's driving privilege pursuant to section 302.530, RSMo.

(1) Individuals shall make a written request for a review of the director's determination. At the time of such request the individual must indicate whether the request is for an in-person hearing. If an in-person hearing is not requested the individual will be scheduled for a telephone hearing and will waive any further opportunity for in-person hearing. The request must actually be filed with the department on or before the effective date of the suspension or revocation. The effective date shall be fifteen (15) days after the date of issuance of the notice of suspension if the notice is hand delivered or eighteen (18) days from the date of mailing if the notice of suspension is mailed from the department. If any request for a hearing is delivered by United States mail postage prepaid after the effective date of suspension or revocation, the date of the United States postmark stamped on the envelope shall be deemed to be the date of filing. The request shall be sent to: Missouri Department of Revenue, Driver License Bureau, PO Box 3700, Jefferson City, MO 65105-3700, or the request may be made electronically in a manner prescribed by the director. If the effective date falls on a Saturday, Sunday, or legal holiday in this state, the request for hearing shall be considered timely if it is filed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday as specified in 12 CSR 10-24.340.

(2) Failure to properly request a hearing shall be considered a waiver of the right to an administrative hearing and shall make the director's determination final.

(3) Individuals requesting hearings may request one (1) continuance for good cause shown. The decision to grant a continuance shall be at the discretion of the director. All requests for continuances should be in writing, state the factual basis for the continuance, and be signed by the individual making the request or their attorney. All requests for continuance must be filed not later than six (6) days prior to the date of the scheduled hearing. The following events or conditions shall constitute good cause to continue a hearing:

- (A) Death of a party, representative or attorney of a party, or witness to an essential fact;
- (B) Incapacitating illness of a party or representative, or attorney of a party, or witness to an essential fact. The request must contain a written statement by an attending physician reciting the nature and probable duration of the illness; and
- (C) Unavailability of a party, representative or attorney, or material witness due to an unavoidable emergency.

(4) Any delay in a hearing which is caused or requested by the party that was arrested or stopped which is not for good cause shall not result in a stay of the suspension or revocation during the period of delay.

(5) Based upon the type of hearing requested by the individual in the written request for review the director will schedule a hearing. The party arrested/stopped may be represented by an attorney during any telephonic or in-person hearing. Notice of the hearing, place, date, and time shall be sent to the party arrested/stopped and to the attorney of record, if known, at the time notice is sent. Suspension or revocation shall be stayed until a final order is issued following the hearing.

(6) The sole issue at the hearing shall be whether, by the preponderance of the evidence, the person was arrested/stopped upon probable cause to believe the alcohol concentration in the person's blood exceeded the limits provided in section 302.505, RSMo. The provisions of Chapter 536, RSMo shall apply when not inconsistent with Chapter 302, RSMo.

(7) Subsequent to the hearing, the director shall render a final decision. The party and the attorney of record shall either be mailed copies of the decision by regular mail or be sent electronic copies of the decision in accordance with section 32.400, RSMo.

(8) At the hearing the party may present any facts which show the party was not driving a motor vehicle while the alcohol concentration in the person's blood exceeded the limits provided in section 302.505, RSMo. A party may subpoena witnesses in accordance with the procedures of section 536.077, RSMo. A party may subpoena witnesses, including the law enforcement officer or blood alcohol concentration analyzer, to attend the hearing or participate in a telephonic hearing by requesting a subpoena from the Department of Revenue at least five (5) working days prior to the hearing. Parties and witnesses may attend in-person hearings via video conferencing when approved by the director. If a witness fails to appear or participate in the hearing, after proper service of the subpoena, the Department of Revenue will continue the hearing to enforce the subpoena including enforcement action as provided in section 536.077, RSMo. In the case of death or total incapacitation of the witness, where enforcement action is not feasible, the department may consider written testimony of the witness prepared at or near the time of the incident in lieu of the actual appearance of such witness and the party may make any objection or argument to such written testimony of the witness.

(9) The party may examine all available evidence before the hearing. Any witness may be cross-examined during the hearing.

(10) The party aggrieved by the decision of the director may appeal to the circuit court of the county in which the arrest occurred. This appeal must be filed within fifteen (15) days after the date of the final decision of the director.

*AUTHORITY: section 302.530, RSMo 2016. * Original rule filed Feb. 3, 1984, effective May 11, 1984. Amended: Filed Aug. 2, 1985, effective Dec. 26, 1985. Emergency amendment filed June 26, 1992, effective July 6, 1992, expired Nov. 2, 1992. Emergency amendment filed Oct. 22, 1992, effective Nov. 3, 1992, expired March 2, 1993. Amended: Filed June 26, 1992, effective*

*Feb. 26, 1993. Amended: Filed Nov. 24, 1993, effective June 6, 1994. Amended: Filed Dec. 15, 1998, effective June 30, 1999. Emergency amendment filed Sept. 20, 2001, effective Sept. 30, 2001, expired March 28, 2002. Amended: Filed July 25, 2001, effective Feb. 28, 2002. Amended: Filed Oct. 20, 2005, effective May 30, 2006. ** Amended: Filed Jan. 25, 2023, effective Aug. 30, 2023.*

**Original authority: 302.530, RSMo 1983, amended 1984, 1996, 2005, 2012.*

***Pursuant to Executive Order 21-09, 12 CSR 10-24.030, sections (1), (5), (8), and (9) and subsection 3 of section 302.530, RSMo was suspended from April 16, 2020 through December 31, 2021.*