

**Title 19—DEPARTMENT OF
HEALTH AND SENIOR SERVICES
Division 25—State Public Health Laboratory
Chapter 30—Determination of Blood
Alcohol by Blood, Breath, Saliva and
Urine Analysis; and Determination for
the Presence of Drugs in Blood, Saliva and Urine**

PROPOSED AMENDMENT

19 CSR 25-30.070 Approval of Methods for the *[Determination of Blood Alcohol Content From Samples of Blood, Saliva, or Urine]* Analysis of Blood, Saliva, and Urine for the Determination of Blood Alcohol Content or the Presence of Drugs. The department is amending the title, purpose, and sections (1), (2), and (3) and adding new sections (2), (3), (5), and (6).

PURPOSE: This amendment combines two similar rules and updates the statutory references and analytical methodologies that are now applicable.

PURPOSE: This rule establishes the methods and analytical principles **approved for the *[by which]* determination of blood alcohol content or the presence of drugs** from samples of blood, urine, or saliva *[are approved]*.

(1) Samples of blood, saliva, or urine shall be collected in accordance with the provisions of sections **577.001-577.041** *[577.029, and 306.111–306.119]*, RSMo, and a sufficient volume of sample shall be collected to provide for duplicate testing.

(2) The laboratory in which these analyses are performed shall have a director who shall assume full responsibility for the accuracy of tests and reports.

(3) An individual shall have a valid Type I permit in order to perform analyses of blood, saliva, and urine for the presence of drugs.

(4) *[(2)]* Methods based on the following analytical principles are approved for the determination of blood alcohol content from a sample of blood, saliva, or urine:

(A) Chromatography*[ic identification and quantization of alcohols]*, in liquid or vapor phase;

(B) Spectrophotometry;*[ic or colorimetric measurement of the conversion of alcohol to acetaldehyde by alcohol-dehydrogenase; or]*

(C) **Colorimetry; or** *[The quantitative determination of the reduction of dichromate in acid solution by ethanol.]*

(D) The quantitative determination of the reduction of dichromate in acid solution by ethanol.

(5) Methods based on the following analytical principles are approved for the analysis of blood, saliva, and urine for the presence of drugs:

(A) **Chromatography, in liquid or vapor phase;**

- (B) Spectrophotometry;
- (C) Spectrometry; or
- (D) Immunoassay.

(6) All initial testing for the presence of drugs other than alcohol producing positive results shall be confirmed by a method employing mass spectrometry (MS).

(7) [(3)] Blood, saliva, and urine tests for the determination of blood alcohol content **or the presence of drugs** performed prior to the effective date of this rule shall be considered valid under this rule if such tests were completed in compliance with the rules in effect at the time the test was conducted.

*AUTHORITY: section[s] 192.006 [and 577.026], RSMo 2000, [and] section[s] [306.114, 306.117,] 577.020, **RSMo 2017, and section 577.037, RSMo [Supp. 2011] 2016.** * This rule previously filed as 19 CSR 20-30.070. Emergency rule filed May 21, 1987, effective May 31, 1987, expired Sept. 28, 1987. Original rule filed May 21, 1987, effective Aug. 27, 1987. Emergency rescission filed Aug. 14, 1987, effective Aug. 26, 1987, expired Dec 11, 1987. Emergency amendment filed Feb. 16, 1988, effective Feb. 26, 1988, expired June 24, 1988. Amended: Filed Feb. 16, 1988, effective April 28, 1988. Changed to 19 CSR 25-30.070 Jan. 1, 1995. Emergency amendment filed May 10, 2001, effective May 22, 2001, expired Nov. 17, 2001. Amended: Filed May 10, 2001, effective Oct. 30, 2001. Amended: Filed May 31, 2012, effective Dec. 30, 2012.*

**Original authority: 192.006, RSMo 1993, amended 1995; 306.114, RSMo 1993, amended 2004, 2005, 2008; 306.117, RSMo 1993, amended 2005, 2008; 577.020, RSMo 1977, amended 1982, 1983, 1996, 1998, 2001, 2006; 577.026, RSMo 1982; and 577.037, RSMo 1982, amended 1983, 1988, 1993, 1996, 2001.*

State v. Kummer, 741 S.W.2d 285 (Mo. App. 1987). The rules of the Department of Health approving methods of analysis for determining blood alcohol content are procedural and relate to the admissibility of evidence, and thus are to be applied retrospectively.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Bill Whitmar, Director, Missouri Department of Health and Senior Services, Missouri State Public Health Laboratory, P.O. Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*