

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

THOMAS PATRICK IRWIN, Respondent,	)	No. ED94577
	)	Appeal from the Circuit Court of
vs.	)	St. Louis County
	)	
DIRECTOR OF REVENUE, STATE OF	)	Honorable Barbara W. Wallace
MISSOURI, Appellant.	)	Filed: April 10, 2012

The Director of Revenue appeals the judgment of the Circuit Court of St. Louis County reinstating the driving privileges of Thomas Irwin (Driver). The Director claims the trial court erred in excluding the breath test results and maintenance records because it erroneously declared and applied the law.

REVERSED AND REMANDED.

Division Four Holds: The trial court sustained Driver's objection to admission of his breath test results on the grounds that the police officer who administered the breath test was certified by the Missouri Department of Health and Human Services (DHSS), and not by the Missouri Department of Transportation. Following the trial court's ruling, this court held that permits to operate breath test equipment issued by DHSS are valid and the test results are admissible in proceedings to suspend a motorist's driver's license. Schneider v. Dir. of Revenue, 339 S.W.3d 533, 534 (Mo.App.E.D. 2011); see also Grafeman v. Dir. of Revenue, 344 S.W.3d 861 (Mo.App.W.D. 2011); Downs v. Dir. of Revenue, 344 S.W.3d 818 (Mo.App.S.D. 2011).

Opinion by: Patricia L. Cohen, P.J. Glenn A. Norton, J., and Robert M. Clayton III, J., concur.

Attorney for Appellant: Jonathan H. Hale

Attorney for Respondent: Robert S. Adler

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**