OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

MEGAN LIZABETH SCHWANDNER,	)	No. ED108288
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Charles County
vs.	)	1811-CC00576
	)	
DIRECTOR OF REVENUE,	)	Honorable Matthew E.P. Thornhill
	)	
Appellant.	)	Filed: January 26, 2021

The Director of Revenue ("the Director") appeals from the judgment of the trial court reinstating the driving privileges of Megan Lizabeth Schwandner ("Driver"), which were suspended after her arrest for driving while intoxicated. On appeal, the Director argues that the trial court erred in excluding from evidence the breath sample results showing Driver's blood alcohol content ("BAC").

REVERSED AND REMANDED.

Division One holds:

(1) The Director's evidence in this case identifying "Intoximeters, Inc." as the supplier of the standard compressed ethanol-gas standard mixture used to maintain the breath analyzer machine used by Driver was sufficient to establish the mixture came from an approved supplier under 19 CSR 25-30.051(6) (effective from February 28, 2014 to March 29, 2020).[1]

(2) It is not necessary to prove a company such as Intoximeters, Inc. has a particular zip code in order to show the company is an approved supplier of standard compressed ethanol-gas mixtures under 19 CSR 25-30.051(6).

(3) The trial court erred in excluding Driver's breath sample results on the grounds the standard compressed ethanol-gas mixture used to maintain the breath analyzer machine used by Driver was not provided from an approved supplier because the zip code listed for Intoximeters, Inc. in the Director's evidence was different than the zip code listed for the company in 19 CSR 25-30.051(6). Accordingly, the trial court's judgment is reversed. Given its disposition on the BAC evidence, the trial court made no findings on whether the Director met his burden to prove probable cause for

[1] All references to 19 CSR 25-30.051 are to the version of the regulation effective from February 28, 2014 to March 29, 2020, which incorporates amendments through September 4, 2013.

Driver's arrest. Therefore, we must remand the case for further proceedings consistent with this Court's opinion.

Opinion by: Robert M. Clayton III, J.
Colleen Dolan, P.J., and Mary K. Hoff, J., concur.

Attorney for Appellant: Eric W. McDonnell, Rachel M. Jones

Attorney for Respondent: Douglas N. Richards

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.