

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

THOMAS MICHAEL PRADE, Respondent,)	No. ED103332
)	
vs.)	Appeal from the Circuit Court
)	of St. Charles County
DIRECTOR OF REVENUE, Appellant.)	Hon. Matthew E.P. Thornhill
)	Filed: June 21, 2016

The Director of Revenue appeals from the judgment of the trial court reinstating the driving privileges of Thomas Prade, which were suspended after his arrest for driving while intoxicated. The Director argues that the trial court erred in excluding from evidence the breath sample results showing Prade’s blood alcohol content (“BAC”) was over the legal limit based on its erroneous conclusion that the Director had not established a foundation for its admission in accordance with 19 CSR 25-30.051 because the manufacturer of the gas mixture used to maintain the breath analyzer was not an approved supplier under that regulation.

REVERSED AND REMANDED.

Division One holds:

The plain meaning of “provided from approved suppliers” in 19 CSR 25-30.051(5) requires only proof that the entity that provided the gas mixture to law enforcement was an approved supplier listed in the regulation. There is no further requirement of proof regarding the manufacturer of the gas mixture or any other entity in the chain of supply.

The entity identified on the maintenance report as the supplier of the gas mixture in this case was an approved supplier under 19 CSR 25-30.051. The fact that the gas mixture was manufactured by another entity is irrelevant to the admissibility of the breath sample results.

Opinion by: Robert G. Dowd, Jr., P.J.
Mary K. Hoff, J. and Roy L. Richter, J., concur.

Attorneys for Appellant:

Rachel M. Jones, Daniel N. McPherson

Attorneys for Respondent:

John M. Lynch, Allison F. Stenger and
James J. Lang

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.