



[HF 536](#) – Motor Vehicle and Drug Paraphernalia Violations, Scheduled Fines (LSB1961HV)
Staff Contact: Maria Wagenhofer (515.281.5270) maria.wagenhofer@legis.iowa.gov
Fiscal Note Version – New

Description

[House File 536](#) relates to penalties for certain violations of Iowa Code chapters [124](#) and [321](#). The Bill does the following:

- Reduces the penalty for a person who knowingly or intentionally manufacturers, delivers, sells, or possesses drug paraphernalia from a simple misdemeanor to a scheduled fine of \$260.
- Makes the following prima facie evidence of reckless driving:
 - Exceeding the posted speed limit by 35 miles per hour or more.
 - Overtaking and passing another vehicle when approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed for a distance of 700 feet.
- Adds slow-moving authorized emergency vehicles to the list of vehicles that motor vehicle operators must approach with due caution by making a lane change or reducing speed under Iowa Code section [321.323A](#). The Bill requires that motor vehicle operators, if not changing lanes, must be moving at least 20 miles per hour less than the posted speed when approaching certain vehicles. Violations of Iowa Code section 321.323A result in a scheduled fine of \$135.
- Provides an exception to the requirement that persons give proof of financial responsibility for their motor vehicles if their license was suspended or revoked for a violation under Iowa Code section [321.372\(3\)](#).
- Lowers the fine for violations of Iowa Code section [321.438](#) (windshields and windows) from \$70 to \$35.
- Increases the fine amount for violating a posted speed limit from \$5 to \$10 for each mile per hour of excessive speed over 20 miles per hour over the limit. The Bill also makes the scheduled fine \$135 for violations of Iowa Code section [321.285](#) that do not involve driving a motor vehicle on a highway in excess of a posted speed limit.
- Lowers the scheduled fine for violations under Iowa Code section [321.445](#) (safety belts and safety harnesses — use required) from \$70 to \$50.

Background

A person convicted of reckless driving is guilty of a simple misdemeanor under Iowa Code section [321.277](#). A simple misdemeanor is punishable by confinement for up to 30 days and a fine of at least \$105 but not more than \$855. Under convictions of reckless driving, the person commits a Class C felony if the person unintentionally causes the death of another and a Class D felony if the person unintentionally causes serious injury. A Class C felony is punishable by confinement for up to 10 years and a fine between \$1,370 and \$13,660. A Class D felony is punishable by confinement for up to five years and a fine between \$1,025 and \$10,245.

Under convictions of Iowa Code section 321.323A, the person is subject to a \$500 fine for causing bodily injury to another person and \$1,000 for a violation causing death. Driver's license suspensions also apply.

Under Iowa Code section [602.8106\(4\)\(b\)](#), scheduled fine revenue for a State law violation is distributed as follows: 91.0% to the State and 9.0% to the general fund of the county in which the violation occurred. For the State share of citations, 1.3% is distributed to the Emergency Medical Services (EMS) Fund, and 98.7% is distributed to the State General Fund.

In addition to the scheduled fine, a Crime Services Surcharge, equal to 15.0% of the fine, and a \$55 fee for court costs are also imposed. The Crime Services Surcharge is remitted to the State Court Administrator and is distributed as follows: 46.0% to the Juvenile Detention Home Fund; 32.0% to the Victim Compensation Fund; 20.0% to the Criminalistics Laboratory Fund; and 2.0% to the Drug Abuse Resistance Education (DARE) Fund. The fee assessed for court costs is deposited into the State General Fund.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay (LOS); revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.
- There will not be additional convictions under Iowa Code section 321.323A as a result of the Bill.
- It is assumed there will be the same number of convictions in future fiscal years as there were in FY 2022 for violations under Iowa Code sections 321.438, 321.285, and 321.445.
- It is unknown how much is collected in fine revenue as a result of simple misdemeanor convictions under Iowa Code sections [124.414\(3\)](#) and 321.285(1). As a result, this **Fiscal Note** does not assess the fiscal impact of changing these violations to a scheduled misdemeanor punishable as a scheduled violation.
- The collection rate for scheduled violations is estimated at 58.0%.

Correctional Impact

House File 536 reduces the penalty for a person who knowingly or intentionally manufactures, delivers, sells, or possesses drug paraphernalia from a simple misdemeanor to a scheduled fine of \$260. In FY 2022, there were 2,414 convictions under Iowa Code section 124.414 for drug paraphernalia. There may be a correctional impact under the Bill by reducing the number of people in jail as a result of a conviction under Iowa Code section 124.414. However, of the convictions in FY 2022, data is not available to determine how many went to jail. As a result, the correctional impact for the changes to Iowa Code section 124.414 cannot be determined.

House File 536 also adds exceeding the posted speed limit by 35 miles per hour or more and passing violations under Iowa Code section [321.304\(1\)](#) to the definition of reckless driving. Under current law, reckless driving is a simple misdemeanor or a Class D or C felony if the reckless driving causes injury or death. There may be a correctional impact under the Bill from expanding the definition of reckless driving. However, the overall impact cannot be assessed due to a lack of data regarding the number of people who went to jail. In FY 2022, there were 10,327 scheduled violations under Iowa Code section 321.285 for exceeding the posted speed limit by 20 miles per hour or more. The Iowa Code currently does not specify offenses for exceeding the posted speed limit by 35 miles per hour or more, and it is unknown how many of the convictions under Iowa Code section 321.285 would apply. In FY 2022, there were 32 scheduled violations for passing under Iowa Code section 321.304(1).

Table 1 provides estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS under those supervisions; and supervision

marginal costs per day for all Class D or C felony convictions. A conviction for a simple misdemeanor does not result in a prison sentence, but does carry the possibility of confinement for up to 30 days. Marginal county jail costs are estimated to be \$50 per day. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 20, 2023, for information related to the correctional system.

Table 1 — Sentencing Estimates and LOS

Conviction Offense Class	Percent Ordered to State Prison	FY 22 Avg LOS In Prison In Months (All Releases)	FY 22 Marginal Cost Per Day Prison	Percent Ordered to Probation	FY 22 Avg LOS on Probation In Months	FY 22 Avg Cost Per Day Probation	Percent Sentenced to CBC Residential Facility	FY 22 Marginal Cost Per Day CBC	Percent Ordered to County Jail	Avg Length of Stay in County Jail	Marginal Cost Per Day Jail	FY 22 Avg LOS on Parole In Months	FY 22 Marginal Cost Per Day Parole
C Felony Persons	89.8%	50.1	\$23.42	27.6%	39.0	\$7.27	3.6%	\$20.67	43.2%	N/A	\$50.00	19.5	\$7.27
D Felony Persons	79.6%	19.7	\$23.42	59.0%	33.2	\$7.27	8.6%	\$20.67	26.3%	N/A	\$50.00	14.4	\$7.27

Minority Impact

Of the 2,414 convictions for persons who knowingly or intentionally manufacturer, deliver, sell, or possess drug paraphernalia in FY 2022, 79.5% were Caucasian, 11.9% were African American, and 8.6% were other races.

Of the 10,359 convictions for exceeding the posted speed limit by 20 miles per hour or more and prohibited passing under Iowa Code section 321.304(1) in FY 2022, 69.8% were Caucasian, 18.0% were African American, and 12.2% were other races. Iowa’s population is 84.5% Caucasian, 3.6% African American, and 11.9% other races. If the Bill increases the number of people in jail as a result of a simple misdemeanor conviction under Iowa Code sections 321.285 and 321.304(2), it may disproportionately impact African American individuals. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 20, 2023, for information related to minorities in the criminal justice system.

Fiscal Impact

There may be a fiscal impact of HF 536 to the correctional system; however, it cannot be determined at this time. The Bill changes drug paraphernalia violations from a simple misdemeanor to a scheduled violation and specific speeding and passing violations from a scheduled violation to a simple misdemeanor, with higher penalties if reckless driving resulted in injury or death.

Table 2 shows the average State cost per offense for a Class C felony, Class D felony, and simple misdemeanor. The estimated impact to the State General Fund includes operating costs incurred by the Judicial Branch, the Indigent Defense Fund, and the Department of Corrections (DOC). The cost would be incurred across multiple fiscal years for prison and parole supervision.

Table 2 — Average State Cost Per Offense Class Type

Offense Class	Total Minimum Cost	Total Maximum Cost
Simple Misdemeanor	\$30	\$370
Class C Felony	\$12,100	\$25,100
Class D Felony	\$9,500	\$17,400

There will also be a fiscal impact as a result of scheduled fine amount changes. **Table 3** includes the fiscal impact of changing the scheduled fines for violations under Iowa Code sections 321.438, 321.285, and 321.445.

Table 3 — Estimated Revenue Decrease, Current Law vs HF 536	
	FY 2024 vs FY 2023
General Fund	
Penalty Revenue	\$ -257,427
Surcharge	
Juvenile Detention	\$ -19,776
Victim Compensation	-13,757
Crime Lab	-8,598
DARE	-860
Subtotal	\$ -42,992
Other	
County General Funds	\$ -25,795
EMS Fund	-3,391
Total	\$ -329,605

There may be additional changes in revenue as a result of violations under Iowa Code sections 124.414(3) and 321.285(1) now being punishable as scheduled violations. However, the fiscal impact of these changes cannot be determined at this time.

Sources

Criminal and Juvenile Justice Planning Division, Department of Human Rights
LSA calculations

/s/ Jennifer Acton

March 8, 2023

Doc ID 1370372

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
