

1 SEC. 2. Section three hundred twenty-one E point sixteen
 2 (321E.16), Code 1973, is amended to read as follows:
 3 321E.16 Violations—penalties. ~~Proof of violation of any provi-~~
 4 ~~sion of any permit issued under this chapter shall render the entire~~
 5 ~~permit null and void, and shall be punishable Any person who is con-~~
 6 ~~victed of a violation of any provision other than length, height, width,~~
 7 ~~or weight of any permit issued under this chapter shall be punished~~
 8 ~~by a fine of not less than one hundred dollars, nor more than five hun-~~
 9 ~~dred dollars. The fine for violation of the length, height, width, and~~
 10 ~~weight allowed by permit shall be based upon the difference between~~
 11 ~~the actual length, height, width, and weight of the vehicle and load and~~
 12 ~~the maximum allowable by permit and in accordance with section~~
 13 321.482 for violations of length, height, or width limitations and sec-
 14 tions 321.482 and 321.463 for violation of weight limitations. If a
 15 vehicle with indivisible load traveling under permit is found to be in
 16 violation of weight limitations, the vehicle operator shall be allowed
 17 a reasonable amount of time to remove any ice, mud, snow, and other
 18 weight attributable to climatic conditions accumulated along the route
 19 prior to application of the penalties prescribed in sections 321.463 and
 20 321.482.

1 SEC. 3. Section three hundred twenty-one point four hundred
 2 sixty-six (321.466), Code 1973, is amended by adding the following
 3 new paragraph:
 4 NEW PARAGRAPH. Any person operating a vehicle on the public
 5 highways with a gross weight exceeding that for which it is registered
 6 shall be subject to a fine of one dollar for each one hundred pounds
 7 that the actual gross weight of the vehicle exceeds the registered gross
 8 weight.

Approved March 29, 1974

CHAPTER 1193

HABITUAL TRAFFIC OFFENDERS

S. F. 173

AN ACT to forbid the use of the highways of this state to habitual offenders of the traffic laws, and to provide punishment for those who violate the provisions of this Act.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. NEW SECTION. As used in this Act, "habitual of-
 2 fender" means any person who has accumulated convictions for sepa-
 3 rate and distinct offenses described in subsections one (1), two (2),
 4 or three (3) of this section, committed after July 1, 1974, as follows:
 5 1. Three or more convictions within a six-year period, of the fol-
 6 lowing offenses, either singularly or in combination:
 7 a. Manslaughter resulting from the operation of a motor vehicle.
 8 b. Driving a motor vehicle while under the influence of an alcoholic
 9 beverage or a controlled substance as defined in section two hundred
 10 four point one hundred one (204.101) of the Code.

11 c. Driving a motor vehicle while operator's or chauffeur's license is
12 suspended or revoked.

13 d. Perjury or the making of a false affidavit or statement under oath
14 to the department of public safety.

15 e. An offense punishable as a felony under the motor vehicle laws of
16 Iowa or any felony in the commission of which a motor vehicle is used.

17 f. Failure to stop and leave information or to render aid as required
18 by section three hundred twenty-one point two hundred sixty-three
19 (321.263) of the Code.

20 g. A violation of the traffic laws, except parking regulations, com-
21 mitted during a period of suspension or revocation.

22 2. Six or more convictions of any separate and distinct offenses
23 within a two-year period in the operation of a motor vehicle which are
24 required to be reported to the department of public safety by section
25 three hundred twenty-one point two hundred seven (321.207) of the
26 Code, except equipment violations, violations of parking regulations
27 of cities, violations of registration laws, operating a vehicle with an
28 expired license or permit, failure to appear, and weights and mea-
29 sures violations and speeding violations of less than six miles per hour
30 over the legal speed limit, as provided by law prior to enactment of
31 Senate File one thousand thirteen (1013), Acts of the Sixty-fifth
32 General Assembly, 1974 Session.

33 3. The offenses included in subsections one (1) and two (2) of this
34 section shall be deemed to include offenses under any valid town, city,
35 or county ordinance paralleling and substantially conforming to the
36 provisions of the Code concerning such offenses.

1 SEC. 2. NEW SECTION. The commissioner of public safety shall
2 certify three abstracts of the conviction record as maintained in the
3 department of public safety of any person who appears to be an
4 habitual offender, to the county attorney of the county in which such
5 person resides, or to the attorney general if such person is not a resi-
6 dent of this state. The county attorney or attorney general, upon
7 receiving the abstract from the commissioner of public safety, shall
8 file a petition against the person named therein in the district court
9 of the state of Iowa in the county wherein such person resides or, in
10 the case of a nonresident, in the district court in Polk county. The
11 petition shall request the court to determine whether or not the person
12 named therein is an habitual offender.

1 SEC. 3. NEW SECTION. The abstract certified by the commission-
2 er may be admitted as evidence as provided in section six hundred
3 twenty-two point forty-three (622.43) of the Code. The abstract shall
4 be prima facie evidence that the person named therein was duly con-
5 victed by the court wherein such conviction or holding was made of
6 each offense shown by such abstract, and if such person shall deny any
7 of the facts as stated therein, he shall have the burden of proving that
8 such is untrue.

1 SEC. 4. NEW SECTION. Upon the filing of the petition, a judge
2 of the district court shall enter an order incorporating by attachment
3 the aforesaid abstract and direct the person named therein as defend-
4 ant to appear as ordered by the court and show cause why such person
5 should not be barred from operating a motor vehicle on the highways
6 of this state. A copy of the petition, the show cause order, and the

7 abstract shall be served upon the person named therein as defendant
8 in the same manner as an original notice. Service of notice on any
9 nonresident of this state may be made in the same manner as pro-
10 vided in sections three hundred twenty-one point four hundred ninety-
11 eight (321.498) through three hundred twenty-one point five hundred
12 six (321.506), inclusive, of the Code.

1 SEC. 5. NEW SECTION. If the court finds that the defendant is
2 not the same person named in the abstract, or that the defendant is
3 not an habitual offender as provided in this Act, the proceeding shall
4 be dismissed. If the court finds that the defendant is an habitual
5 offender, the court shall by appropriate judgment direct that such
6 person not operate a motor vehicle on the highways of this state for the
7 period specified in section six (6) of this Act. In such case the de-
8 fendant shall surrender to the court all licenses or permits to operate
9 a motor vehicle upon the highways of this state. The clerk of the court
10 shall transmit a copy of such judgment together with any licenses or
11 permits surrendered to the department of public safety.

1 SEC. 6. NEW SECTION. A license to operate a motor vehicle in
2 this state shall not be issued to any person declared to be an habitual
3 offender under section one (1), subsection one (1) of this Act for a
4 period of six years from the date of judgment. A license to operate a
5 motor vehicle in this state shall not be issued to any person declared
6 to be an habitual offender under section one (1), subsection two (2) of
7 this Act for a period of one year from the date of judgment.

1 SEC. 7. NEW SECTION. It shall be unlawful for any person con-
2 victed as an habitual offender to operate any motor vehicle in this state
3 during the period of time specified in section six (6) of this Act. Any
4 person guilty of violating the provisions of this section shall upon
5 conviction be punished by imprisonment in the penitentiary for not
6 more than two years and notwithstanding the provisions of section
7 six hundred eighty-seven point two (687.2) of the Code, such convic-
8 tion shall constitute a misdemeanor and not a felony.

1 SEC. 8. NEW SECTION. Nothing in sections one (1) through eight
2 (8) of this Act shall be construed as amending, modifying, or repeal-
3 ing any existing law of this state or any ordinance of any political
4 subdivision relating to the operation of motor vehicles, the licensing
5 of persons to operate motor vehicles, or providing penalties for the
6 violation thereof.

Approved April 25, 1974