



HOUSE FILE 265

AN ACT

RELATING TO THE WITHDRAWAL OF BLOOD WITHOUT A WARRANT FROM A PERSON UNDER ARREST FOR AN OPERATING-WHILE-INTOXICATED OFFENSE WHEN THE ARREST RESULTS FROM A TRAFFIC ACCIDENT RESULTING IN DEATH OR PERSONAL INJURY REASONABLY LIKELY TO CAUSE DEATH.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 321J.10A BLOOD WITHDRAWAL WITHOUT A WARRANT.

1. Notwithstanding section 321J.10, if a person is under arrest for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle in violation of section 321J.2 or 321J.2A, and that arrest results from an accident that causes a death or personal injury reasonably likely to cause death, a chemical test of blood may be administered without the consent of the person arrested to determine the amount of alcohol or a controlled substance in that person's blood if all of the following circumstances exist:

a. The peace officer reasonably believes the blood drawn will produce evidence of intoxication.

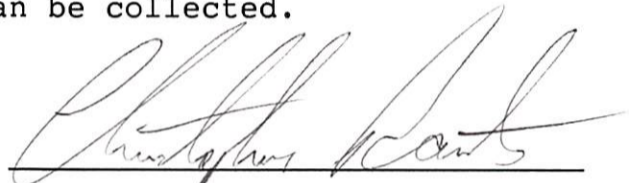
b. The method used to take the blood sample is reasonable and performed in a reasonable manner by medical personnel under section 321J.11.

c. The peace officer reasonably believes the officer is confronted with an emergency situation in which the delay necessary to obtain a warrant under section 321J.10 threatens the destruction of the evidence.

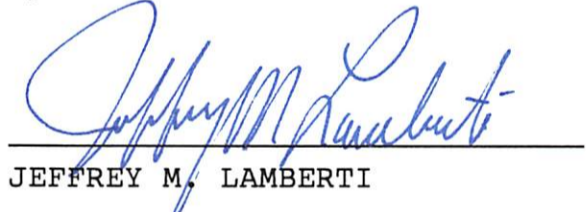
2. If the person from whom a specimen of blood is to be withdrawn objects to the withdrawal, a breath or urine sample may be taken under the following circumstances:

a. If the person is capable of giving a specimen of breath, and a direct breath testing instrument is readily available, the withdrawal of a specimen of the person's breath may be taken for chemical testing, unless the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug.

b. If the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug, a urine sample shall be collected in lieu of a blood sample, if the person is capable of giving a urine sample and the sample can be collected.



CHRISTOPHER C. RANTS
Speaker of the House



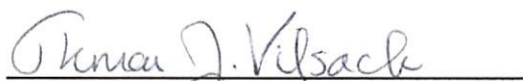
JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 265, Eightieth General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Approved April 26, 2004



THOMAS J. VILSACK
Governor