

Amendment

FILED FEB 25 1991

SENATE FILE **230**
BY TAYLOR and VANDE HOEF

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the violation of operating a motor vehicle
2 while under the influence of an alcoholic beverage by reducing
3 by one-half the per se alcohol concentration level.

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

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SF 230

1 Section 1. Section 321J.2, subsections 1 and 9, Code 1991,
2 are amended to read as follows:

3 1. A person commits the offense of operating while
4 intoxicated if the person operates a motor vehicle in this
5 state in either of the following conditions:

6 a. While under the influence of an alcoholic beverage or
7 other drug or a combination of such substances.

8 b. While having an alcohol concentration as defined in
9 section 321J.1 of ± 0 .05 or more.

10 9. In any prosecution under this section, the results of a
11 chemical test may not be used to prove a violation of
12 paragraph "b" of subsection 1 if the alcohol concentration
13 indicated by the chemical test minus the established margin of
14 error inherent in the device or method used to conduct the
15 chemical test does not equal an alcohol concentration of ± 0
16 .05 or more.

17 Sec. 2. Section 321J.4, subsection 3, paragraph b,
18 subparagraph (2), Code 1991, is amended to read as follows:

19 (2) The defendant has not been convicted, since the date
20 of the revocation order, of any subsequent violations of
21 section 321J.2 or 123.46, or any comparable city or county
22 ordinance, and the defendant has not, since the date of the
23 revocation order, submitted to a chemical test under this
24 chapter that indicated an alcohol concentration as defined in
25 section 321J.1 of ± 0 .05 or more, or refused to submit to
26 chemical testing under this chapter.

27 Sec. 3. Section 321J.6, subsection 1, paragraphs d and f,
28 Code 1991, are amended to read as follows:

29 d. The preliminary breath screening test was administered
30 and it indicated an alcohol concentration as defined in
31 section 321J.1 of ± 0 .05 or more.

32 f. The preliminary breath screening test was administered
33 and it indicated an alcohol concentration of less than 0 ± 0
34 .05 and the peace officer has reasonable grounds to believe
35 that the person was under the influence of a drug other than

1 alcohol or a combination of alcohol and another drug.

2 Sec. 4. Section 321J.8, subsection 2, Code 1991, is
3 amended to read as follows:

4 2. If the person submits to the test and the results
5 indicate an alcohol concentration as defined in section 321J.1
6 of ± 10 .05 or more, the person's license or operating
7 privilege will be revoked by the department for the applicable
8 period under section 321J.12.

9 Sec. 5. Section 321J.12, Code 1991, is amended to read as
10 follows:

11 321J.12 TEST RESULT REVOCATION.

12 Upon certification, subject to penalty for perjury, by the
13 peace officer that there existed reasonable grounds to believe
14 that the person had been operating a motor vehicle in
15 violation of section 321J.2, that there existed one or more of
16 the necessary conditions for chemical testing described in
17 section 321J.6, subsection 1, and that the person submitted to
18 chemical testing and the test results indicated an alcohol
19 concentration as defined in section 321J.1 of ± 10 .05 or more,
20 the department shall revoke the person's motor vehicle license
21 or nonresident operating privilege for a period of one hundred
22 eighty days if the person has had no revocation within the
23 previous six years under this chapter, and one year if the
24 person has had one or more previous revocations within the
25 previous six years under this chapter.

26 The effective date of the revocation shall be twenty days
27 after the department has mailed notice of revocation to the
28 person by certified mail. The peace officer who requested or
29 directed the administration of the chemical test may, on
30 behalf of the department, serve immediate notice of revocation
31 on a person whose test results indicated an alcohol
32 concentration of ± 10 .05 or more.

33 If the peace officer serves that immediate notice, the
34 peace officer shall take the person's Iowa license or permit,
35 if any, and issue a temporary license valid only for twenty

1 days. The peace officer shall immediately send the person's
2 driver's license to the department along with the officer's
3 certificate indicating that the test results indicated an
4 alcohol concentration of ± 0 .05 or more.

5 The results of a chemical test may not be used as the basis
6 for a revocation of a person's motor vehicle license or
7 nonresident operating privilege if the alcohol concentration
8 indicated by the chemical test minus the established margin of
9 error inherent in the device or method used to conduct the
10 chemical test does not equal an alcohol concentration of ± 0
11 .05 or more.

12 Sec. 6. Section 321J.13, subsection 2, paragraph b, Code
13 1991, is amended to read as follows:

14 b. Whether a test was administered and the test results
15 indicated an alcohol concentration as defined in section
16 321J.1 of ± 0 .05 or more.

17 Sec. 7. Section 707.6A, subsection 1, paragraph a, Code
18 1991, is amended to read as follows:

19 a. Operating a motor vehicle while under the influence of
20 alcohol or other drug or a combination of such substances or
21 while having an alcohol concentration, as defined in section
22 321J.1, subsection 1, of ± 0 .05 or more. Upon a plea or
23 verdict of guilty of a violation of this paragraph, the court
24 shall order the state department of transportation to revoke
25 the defendant's motor vehicle license or nonresident operating
26 privileges for a period of six years. The defendant shall
27 surrender to the court any Iowa license or permit and the
28 court shall forward it to the department with a copy of the
29 revocation order.

30 EXPLANATION

31 This bill lowers the per se alcohol concentration
32 level from .10 to .05 for the violation of operating a
33 motor vehicle while under the influence of an alcoholic
34 beverage.

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