

Lamberti  
Hansen  
McKean

SSB - 1108

Judiciary  
Succeeded By

SENATE FILE SF/HF 189

BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON MCKEAN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act to change the penalty for and to reclassify certain  
2 misdemeanors.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 123.47, subsection 3, Code 1999, is  
2 amended to read as follows:

3 3. A person who is under legal age, other than a licensee  
4 or permittee, who violates this section regarding the purchase  
5 of or attempt to purchase alcoholic liquor, wine, or beer, or  
6 possessing or having control of alcoholic liquor, wine, or  
7 beer, commits a simple misdemeanor punishable by a fine of one  
8 hundred dollars for the first offense. A second or subsequent  
9 offense shall be a serious simple misdemeanor punishable by a  
10 fine of two hundred dollars and the suspension of the person's  
11 motor vehicle operating privileges for a period not to exceed  
12 one year. The court may, in its discretion, order the person  
13 who is under legal age to perform community service work under  
14 section 909.3A, of an equivalent value to the fine imposed  
15 under this section. However, if the person who commits the  
16 violation of this section is under the age of eighteen, the  
17 matter shall be disposed of in the manner provided in chapter  
18 232.

19 Sec. 2. Section 321.218, subsection 1, Code 1999, is  
20 amended to read as follows:

21 1. A person whose driver's license or operating privilege  
22 has been denied, canceled, suspended, or revoked as provided  
23 in this chapter or as provided in section 252J.8 or section  
24 901.5, subsection 10, and who operates a motor vehicle upon  
25 the highways of this state while the license or privilege is  
26 denied, canceled, suspended, or revoked, commits a serious  
27 simple misdemeanor. In addition to any other penalties, a  
28 person sentenced under this subsection shall be assessed a  
29 fine of not less than two hundred fifty dollars nor more than  
30 one thousand five hundred dollars.

31 Sec. 3. Section 321.260, subsection 1, paragraph a, Code  
32 1999, is amended to read as follows:

33 a. A person who willfully and intentionally, without  
34 lawful authority, attempts to or in fact alters, defaces,  
35 injures, knocks down, or removes an official traffic-control

1 device, an authorized warning sign or signal or barricade,  
2 whether temporary or permanent, a railroad sign or signal, an  
3 inscription, shield or insignia on any of such devices, signs,  
4 signals, or barricades, or any other part thereof, shall, upon  
5 conviction, be guilty of a **serious simple** misdemeanor and  
6 shall be required to make restitution to the affected  
7 jurisdiction.

8 Sec. 4. Section 321.260, subsection 2, Code 1999, is  
9 amended to read as follows:

10 2. It shall be unlawful for any person to have in the  
11 person's possession any official traffic-control device except  
12 by legal right or authority. Any person convicted of  
13 unauthorized possession of any official traffic-control device  
14 shall upon conviction be guilty of a **serious simple**  
15 misdemeanor.

16 Sec. 5. Section 321A.32, subsection 1, Code 1999, is  
17 amended to read as follows:

18 1. Any person whose license or registration or  
19 nonresident's operating privilege has been suspended, denied  
20 or revoked under this chapter or continues to remain suspended  
21 or revoked under this chapter, and who, during such  
22 suspension, denial or revocation, or during such continuing  
23 suspension or continuing revocation, drives any motor vehicle  
24 upon any highway or knowingly permits any motor vehicle owned  
25 by such person to be operated by another upon any highway,  
26 except as permitted under this chapter, shall be guilty of a  
27 **serious simple** misdemeanor. In addition to any other  
28 penalties, a person sentenced under this subsection shall be  
29 assessed a fine of not less than two hundred fifty dollars nor  
30 more than one thousand five hundred dollars.

31 Sec. 6. Section 321J.21, subsection 1, Code 1999, is  
32 amended to read as follows:

33 1. A person whose driver's license or nonresident  
34 operating privilege has been suspended, denied, revoked, or  
35 barred due to a violation of this chapter and who drives a

1 motor vehicle while the license or privilege is suspended,  
2 denied, revoked, or barred commits a serious misdemeanor  
3 ~~punishable with a mandatory fine of one thousand dollars.~~ In  
4 addition to any other penalties, a person sentenced under this  
5 section shall be assessed a fine of one thousand dollars.

6 Sec. 7. Section 461A.42, subsection 2, is amended to read  
7 as follows:

8 2. The use of fireworks, as defined in section 727.2, in  
9 state parks and preserves is prohibited except as authorized  
10 by a permit issued by the department. The commission shall  
11 establish, by rule adopted pursuant to chapter 17A, a  
12 fireworks permit system which authorizes the issuance of a  
13 limited number of permits to qualified persons to use or  
14 display fireworks in selected state parks and preserves. A  
15 person violating this subsection is guilty of a serious simple  
16 misdemeanor. The court ~~may~~ shall order restitution ~~for~~ if any  
17 damages were caused by the violation which may include, but is  
18 not limited to, community service. ~~The court may also require~~  
19 ~~that the violator provide proof of restitution.~~

20 Sec. 8. Section 714.2, subsections 4 and 5, Code 1999, are  
21 amended to read as follows:

22 4. The theft of property exceeding one two hundred dollars  
23 in value but not exceeding five hundred dollars in value is  
24 theft in the fourth degree. Theft in the fourth degree is a  
25 serious misdemeanor.

26 5. The theft of property not exceeding one two hundred  
27 dollars in value is theft in the fifth degree. Theft in the  
28 fifth degree is a simple misdemeanor.

29 Sec. 9. Section 714.12, unnumbered paragraph 1, Code 1999,  
30 is amended to read as follows:

31 Fraudulent practice in the fourth degree is a fraudulent  
32 practice where the amount of money or value of property or  
33 services involved exceeds one two hundred dollars but does not  
34 exceed five hundred dollars.

35 Sec. 10. Section 714.13, unnumbered paragraph 1, Code

1 1999, is amended to read as follows:

2 Fraudulent practice in the fifth degree is a fraudulent  
3 practice where the amount of money or value of property or  
4 services involved does not exceed one two hundred dollars.

5 Sec. 11. Section 716.6, Code 1999, is amended to read as  
6 follows:

7 716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

8 Criminal mischief is criminal mischief in the fourth degree  
9 if the cost of replacing, repairing, or restoring the property  
10 so damaged, defaced, altered, or destroyed exceeds one two  
11 hundred dollars, but does not exceed five hundred dollars.

12 Criminal mischief in the fourth degree is a serious  
13 misdemeanor. All criminal mischief which is not criminal  
14 mischief in the first degree, second degree, third degree, or  
15 fourth degree is criminal mischief in the fifth degree.

16 Criminal mischief in the fifth degree is a simple misdemeanor.

17 Sec. 12. Section 716.8, subsection 2, Code 1999, is  
18 amended to read as follows:

19 2. Any person committing a trespass as defined in section  
20 716.7 which results in injury to any person or damage in an  
21 amount more than one two hundred dollars to anything, animate  
22 or inanimate, located thereon or therein commits a serious  
23 misdemeanor.

24 Sec. 13. Section 716.8, subsection 4, Code 1999, is  
25 amended to read as follows:

26 4. A person committing a trespass as defined in section  
27 716.7 with the intent to commit a hate crime which results in  
28 injury to any person or damage in an amount more than one two  
29 hundred dollars to anything, animate or inanimate, located  
30 thereon or therein commits an aggravated misdemeanor.

31 Sec. 14. Section 716A.7, Code 1999, is amended to read as  
32 follows:

33 716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

34 Computer damage is computer damage in the fourth degree  
35 when the damage results in a loss of property or services of

1 more than ~~one~~ two hundred dollars but not more than five  
2 hundred dollars. Computer damage in the fourth degree is a  
3 serious misdemeanor.

4 Sec. 15. Section 716A.8, Code 1999, is amended to read as  
5 follows:

6 716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

7 Computer damage is computer damage in the fifth degree when  
8 the damage results in a loss of property or services of not  
9 more than ~~one~~ two hundred dollars. Computer damage in the  
10 fifth degree is a simple misdemeanor.

11 Sec. 16. Section 716A.13, Code 1999, is amended to read as  
12 follows:

13 716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

14 Computer theft is computer theft in the fourth degree when  
15 the theft involves or results in a loss of services or  
16 property of more than ~~one~~ two hundred dollars but not more  
17 than five hundred dollars. Computer theft in the fourth  
18 degree is a serious misdemeanor.

19 Sec. 17. Section 716A.14, Code 1999, is amended to read as  
20 follows:

21 716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

22 Computer theft is computer theft in the fifth degree when  
23 the theft involves or results in a loss of services or  
24 property of not more than ~~one~~ two hundred dollars. Computer  
25 theft in the fifth degree is a simple misdemeanor.

26 Sec. 18. Section 719.1, subsection 1, Code 1999, is  
27 amended to read as follows:

28 1. A person who knowingly resists or obstructs anyone  
29 known by the person to be a peace officer, emergency medical  
30 care provider under chapter 147A, or fire fighter, whether  
31 paid or volunteer, in the performance of any act which is  
32 within the scope of the lawful duty or authority of that  
33 officer, emergency medical care provider under chapter 147A,  
34 or fire fighter, whether paid or volunteer, or who knowingly  
35 resists or obstructs the service or execution by any

1108

1 authorized person of any civil or criminal process or order of  
 2 any court, commits a **serious simple** misdemeanor. However, if  
 3 a person commits an interference with official acts, as  
 4 defined in this subsection, and in so doing inflicts bodily  
 5 injury other than serious injury, that person commits an  
 6 aggravated misdemeanor. If a person commits an interference  
 7 with official acts, as defined in this subsection, and in so  
 8 doing inflicts or attempts to inflict serious injury, or  
 9 displays a dangerous weapon, as defined in section 702.7, or  
 10 is armed with a firearm, that person commits a class "D"  
 11 felony.

12 Sec. 19. Section 727.2, unnumbered paragraph 2, Code 1999,  
 13 is amended to read as follows:

14 A person, firm, copartnership, or corporation who offers  
 15 for sale, exposes for sale, sells at retail, or uses or  
 16 explodes any fireworks, commits a **serious simple** misdemeanor.  
 17 However, the council of a city or a county board of  
 18 supervisors may, upon application in writing, grant a permit  
 19 for the display of fireworks by municipalities, fair  
 20 associations, amusement parks, and other organizations or  
 21 groups of individuals approved by the city or the county board  
 22 of supervisors when the fireworks display will be handled by a  
 23 competent operator, but no such permit shall be required for  
 24 the display of fireworks at the Iowa state fairgrounds by the  
 25 Iowa state fair board, at incorporated county fairs, or at  
 26 district fairs receiving state aid. Sales of fireworks for  
 27 such display may be made for that purpose only.

28 Sec. 20. Section 730.4, subsection 6, Code 1999, is  
 29 amended to read as follows:

30 6. A person who violates this section commits a **serious**  
 31 **simple** misdemeanor.

32 Sec. 21. Section 903.1, subsection 1, paragraph a, Code  
 33 1999, is amended to read as follows:

34 a. For a simple misdemeanor, ~~either-imprisonment-not-to~~  
 35 ~~exceed-thirty-days,-or~~ there shall be a fine of at least fifty

1 dollars but not to exceed one five hundred dollars. The court  
2 may order imprisonment not to exceed thirty days in lieu of a  
3 fine or in addition to a fine.

4 EXPLANATION

5 This bill makes changes in the penalties for simple  
6 misdemeanors. The bill permits the court upon conviction of a  
7 simple misdemeanor to order a fine of at least \$50 but not  
8 more than \$500 and provides discretion to the court to  
9 sentence a person to jail for up to 30 days in addition to a  
10 fine or to jail for up to 30 days in lieu of imposing a fine.  
11 Currently, a simple misdemeanor is punishable by a fine of at  
12 least \$50 but not more than \$100 or by a sentence not to  
13 exceed 30 days in jail.

14 The bill reclassifies certain driving under suspension  
15 offenses from serious to simple misdemeanors and reclassifies  
16 from serious to simple misdemeanors the following offenses:  
17 use of fireworks, persons under legal age purchasing or in  
18 possession of alcohol (second or subsequent offense),  
19 polygraph examinations by employers, certain interference with  
20 official acts offenses, and interference with signs or  
21 signals.

22 The bill provides discretion to the court to impose a jail  
23 sentence in addition to ordering a mandatory fine, for persons  
24 who commit the offense of driving under suspension or  
25 revocation or driving while barred under Code section 321J.21.  
26 Under current law, persons who violate Code section 321J.21  
27 may only be assessed a mandatory \$1,000 fine. A person whose  
28 driver's license has been suspended, revoked, or barred and is  
29 subsequently convicted under Code section 321J.21, generally  
30 has been suspended, revoked, or barred due to a previous  
31 operating while intoxicated conviction.

32 The bill also changes the threshold dollar limit for  
33 persons to qualify for serious and simple misdemeanor  
34 penalties with respect to acts which constitute theft,  
35 fraudulent practice, computer damage, computer theft, criminal

1 trespass, and criminal mischief. If a person commits theft,  
 2 fraudulent practice, computer damage, computer theft, or  
 3 criminal mischief and the value of the property is no more  
 4 than \$200, the person commits a simple misdemeanor under the  
 5 bill. Under current law, if the value of the property is no  
 6 more than \$100, the person commits a simple misdemeanor. The  
 7 bill further provides similar changes to the threshold dollar  
 8 limit for serious misdemeanor violations involving theft,  
 9 fraudulent practice, computer damage, computer theft, criminal  
 10 trespass, and criminal mischief. If the value of the property  
 11 exceeds \$200, under the bill, the person commits a serious  
 12 misdemeanor. Under current laws, if the value of the property  
 13 exceeds \$100, the person commits a serious misdemeanor.

- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

REPRINTED

FILED FEB 22 1999

SENATE FILE 189  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1108)

Passed Senate, Date <sup>(P. 392)</sup> 2/24/99 Passed House, Date <sup>(P. 1301)</sup> 4/14/99  
Vote: Ayes 48 Nays 0 Vote: Ayes 92 Nays 4  
Approved May 20, 1999

A BILL FOR

1 An Act to change the penalty for and to reclassify certain  
2 misdemeanors.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SF 189

1 Section 1. Section 123.47, subsection 3, Code 1999, is  
2 amended to read as follows:

3 3. A person who is under legal age, other than a licensee  
4 or permittee, who violates this section regarding the purchase  
5 of or attempt to purchase alcoholic liquor, wine, or beer, or  
6 possessing or having control of alcoholic liquor, wine, or  
7 beer, commits a simple misdemeanor punishable by a fine of one  
8 hundred dollars for the first offense. A second or subsequent  
9 offense shall be a serious simple misdemeanor punishable by a  
10 fine of two hundred dollars and the suspension of the person's  
11 motor vehicle operating privileges for a period not to exceed  
12 one year. The court may, in its discretion, order the person  
13 who is under legal age to perform community service work under  
14 section 909.3A, of an equivalent value to the fine imposed  
15 under this section. However, if the person who commits the  
16 violation of this section is under the age of eighteen, the  
17 matter shall be disposed of in the manner provided in chapter  
18 232.

19 Sec. 2. Section 321.218, subsection 1, Code 1999, is  
20 amended to read as follows:

21 1. A person whose driver's license or operating privilege  
22 has been denied, canceled, suspended, or revoked as provided  
23 in this chapter or as provided in section 252J.8 or section  
24 901.5, subsection 10, and who operates a motor vehicle upon  
25 the highways of this state while the license or privilege is  
26 denied, canceled, suspended, or revoked, commits a serious  
27 simple misdemeanor. In addition to any other penalties, a  
28 person sentenced under this subsection shall be assessed a  
29 fine of not less than two hundred fifty dollars nor more than  
30 one thousand five hundred dollars.

31 Sec. 3. Section 321.260, subsection 1, paragraph a, Code  
32 1999, is amended to read as follows:

33 a. A person who willfully and intentionally, without  
34 lawful authority, attempts to or in fact alters, defaces,  
35 injures, knocks down, or removes an official traffic-control

1 device, an authorized warning sign or signal or barricade,  
2 whether temporary or permanent, a railroad sign or signal, an  
3 inscription, shield or insignia on any of such devices, signs,  
4 signals, or barricades, or any other part thereof, shall, upon  
5 conviction, be guilty of a serious simple misdemeanor and  
6 shall be required to make restitution to the affected  
7 jurisdiction.

8 Sec. 4. Section 321.260, subsection 2, Code 1999, is  
9 amended to read as follows:

10 2. It shall be unlawful for any person to have in the  
11 person's possession any official traffic-control device except  
12 by legal right or authority. Any person convicted of  
13 unauthorized possession of any official traffic-control device  
14 shall upon conviction be guilty of a serious simple  
15 misdemeanor.

16 Sec. 5. Section 321A.32, subsection 1, Code 1999, is  
17 amended to read as follows:

18 1. Any person whose license or registration or  
19 nonresident's operating privilege has been suspended, denied  
20 or revoked under this chapter or continues to remain suspended  
21 or revoked under this chapter, and who, during such  
22 suspension, denial or revocation, or during such continuing  
23 suspension or continuing revocation, drives any motor vehicle  
24 upon any highway or knowingly permits any motor vehicle owned  
25 by such person to be operated by another upon any highway,  
26 except as permitted under this chapter, shall be guilty of a  
27 serious simple misdemeanor. In addition to any other  
28 penalties, a person sentenced under this subsection shall be  
29 assessed a fine of not less than two hundred fifty dollars nor  
30 more than one thousand five hundred dollars.

31 Sec. 6. Section 321J.21, subsection 1, Code 1999, is  
32 amended to read as follows:

33 1. A person whose driver's license or nonresident  
34 operating privilege has been suspended, denied, revoked, or  
35 barred due to a violation of this chapter and who drives a

1 motor vehicle while the license or privilege is suspended,  
2 denied, revoked, or barred commits a serious misdemeanor,  
3 ~~punishable-with-a-mandatory-fine-of-one-thousand-dollars.~~ In  
4 addition to any other penalties, a person sentenced under this  
5 section shall be assessed a fine of one thousand dollars.

6 Sec. 7. Section 461A.42, subsection 2, is amended to read  
7 as follows:

8 2. The use of fireworks, as defined in section 727.2, in  
9 state parks and preserves is prohibited except as authorized  
10 by a permit issued by the department. The commission shall  
11 establish, by rule adopted pursuant to chapter 17A, a  
12 fireworks permit system which authorizes the issuance of a  
13 limited number of permits to qualified persons to use or  
14 display fireworks in selected state parks and preserves. A  
15 person violating this subsection is guilty of a serious simple  
16 misdemeanor. The court ~~may~~ shall order restitution ~~for~~ if any  
17 damages were caused by the violation which may include, but is  
18 not limited to, community service. ~~The court may also require~~  
19 ~~that the violator provide proof of restitution.~~

20 Sec. 8. Section 714.2, subsections 4 and 5, Code 1999, are  
21 amended to read as follows:

22 4. The theft of property exceeding one two hundred dollars  
23 in value but not exceeding five hundred dollars in value is  
24 theft in the fourth degree. Theft in the fourth degree is a  
25 serious misdemeanor.

26 5. The theft of property not exceeding one two hundred  
27 dollars in value is theft in the fifth degree. Theft in the  
28 fifth degree is a simple misdemeanor.

29 Sec. 9. Section 714.12, unnumbered paragraph 1, Code 1999,  
30 is amended to read as follows:

31 Fraudulent practice in the fourth degree is a fraudulent  
32 practice where the amount of money or value of property or  
33 services involved exceeds one two hundred dollars but does not  
34 exceed five hundred dollars.

35 Sec. 10. Section 714.13, unnumbered paragraph 1, Code

1 1999, is amended to read as follows:

2 Fraudulent practice in the fifth degree is a fraudulent  
3 practice where the amount of money or value of property or  
4 services involved does not exceed one two hundred dollars.

5 Sec. 11. Section 716.6, Code 1999, is amended to read as  
6 follows:

7 716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

8 Criminal mischief is criminal mischief in the fourth degree  
9 if the cost of replacing, repairing, or restoring the property  
10 so damaged, defaced, altered, or destroyed exceeds one two  
11 hundred dollars, but does not exceed five hundred dollars.

12 Criminal mischief in the fourth degree is a serious  
13 misdemeanor. All criminal mischief which is not criminal  
14 mischief in the first degree, second degree, third degree, or  
15 fourth degree is criminal mischief in the fifth degree.

16 Criminal mischief in the fifth degree is a simple misdemeanor.

17 Sec. 12. Section 716.8, subsection 2, Code 1999, is  
18 amended to read as follows:

19 2. Any person committing a trespass as defined in section  
20 716.7 which results in injury to any person or damage in an  
21 amount more than one two hundred dollars to anything, animate  
22 or inanimate, located thereon or therein commits a serious  
23 misdemeanor.

24 Sec. 13. Section 716.8, subsection 4, Code 1999, is  
25 amended to read as follows:

26 4. A person committing a trespass as defined in section  
27 716.7 with the intent to commit a hate crime which results in  
28 injury to any person or damage in an amount more than one two  
29 hundred dollars to anything, animate or inanimate, located  
30 thereon or therein commits an aggravated misdemeanor.

31 Sec. 14. Section 716A.7, Code 1999, is amended to read as  
32 follows:

33 716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

34 Computer damage is computer damage in the fourth degree  
35 when the damage results in a loss of property or services of

1 more than one two hundred dollars but not more than five  
2 hundred dollars. Computer damage in the fourth degree is a  
3 serious misdemeanor.

4 Sec. 15. Section 716A.8, Code 1999, is amended to read as  
5 follows:

6 716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

7 Computer damage is computer damage in the fifth degree when  
8 the damage results in a loss of property or services of not  
9 more than one two hundred dollars. Computer damage in the  
10 fifth degree is a simple misdemeanor.

11 Sec. 16. Section 716A.13, Code 1999, is amended to read as  
12 follows:

13 716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

14 Computer theft is computer theft in the fourth degree when  
15 the theft involves or results in a loss of services or  
16 property of more than one two hundred dollars but not more  
17 than five hundred dollars. Computer theft in the fourth  
18 degree is a serious misdemeanor.

19 Sec. 17. Section 716A.14, Code 1999, is amended to read as  
20 follows:

21 716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

22 Computer theft is computer theft in the fifth degree when  
23 the theft involves or results in a loss of services or  
24 property of not more than one two hundred dollars. Computer  
25 theft in the fifth degree is a simple misdemeanor.

26 Sec. 18. Section 719.1, subsection 1, Code 1999, is  
27 amended to read as follows:

28 1. A person who knowingly resists or obstructs anyone  
29 known by the person to be a peace officer, emergency medical  
30 care provider under chapter 147A, or fire fighter, whether  
31 paid or volunteer, in the performance of any act which is  
32 within the scope of the lawful duty or authority of that  
33 officer, emergency medical care provider under chapter 147A,  
34 or fire fighter, whether paid or volunteer, or who knowingly  
35 resists or obstructs the service or execution by any

1 authorized person of any civil or criminal process or order of  
2 any court, commits a **serious simple** misdemeanor. However, if  
3 a person commits an interference with official acts, as  
4 defined in this subsection, and in so doing inflicts bodily  
5 injury other than serious injury, that person commits an  
6 aggravated misdemeanor. If a person commits an interference  
7 with official acts, as defined in this subsection, and in so  
8 doing inflicts or attempts to inflict serious injury, or  
9 displays a dangerous weapon, as defined in section 702.7, or  
10 is armed with a firearm, that person commits a class "D"  
11 felony.

12 Sec. 19. Section 727.2, unnumbered paragraph 2, Code 1999,  
13 is amended to read as follows:

14 A person, firm, copartnership, or corporation who offers  
15 for sale, exposes for sale, sells at retail, or uses or  
16 explodes any fireworks, commits a **serious simple** misdemeanor.  
17 However, the council of a city or a county board of  
18 supervisors may, upon application in writing, grant a permit  
19 for the display of fireworks by municipalities, fair  
20 associations, amusement parks, and other organizations or  
21 groups of individuals approved by the city or the county board  
22 of supervisors when the fireworks display will be handled by a  
23 competent operator, but no such permit shall be required for  
24 the display of fireworks at the Iowa state fairgrounds by the  
25 Iowa state fair board, at incorporated county fairs, or at  
26 district fairs receiving state aid. Sales of fireworks for  
27 such display may be made for that purpose only.

28 Sec. 20. Section 730.4, subsection 6, Code 1999, is  
29 amended to read as follows:

30 6. A person who violates this section commits a **serious**  
31 simple misdemeanor.

32 Sec. 21. Section 903.1, subsection 1, paragraph a, Code  
33 1999, is amended to read as follows:

34 a. For a simple misdemeanor, ~~either-imprisonment-not-to~~  
35 ~~exceed-thirty-days,-or~~ there shall be a fine of at least fifty

1 dollars but not to exceed one five hundred dollars. The court  
2 may order imprisonment not to exceed thirty days in lieu of a  
3 fine or in addition to a fine.

4 EXPLANATION

5 This bill makes changes in the penalties for simple  
6 misdemeanors. The bill permits the court upon conviction of a  
7 simple misdemeanor to order a fine of at least \$50 but not  
8 more than \$500 and provides discretion to the court to  
9 sentence a person to jail for up to 30 days in addition to a  
10 fine or to jail for up to 30 days in lieu of imposing a fine.  
11 Currently, a simple misdemeanor is punishable by a fine of at  
12 least \$50 but not more than \$100 or by a sentence not to  
13 exceed 30 days in jail.

14 The bill reclassifies certain driving under suspension  
15 offenses from serious to simple misdemeanors and reclassifies  
16 from serious to simple misdemeanors the following offenses:  
17 use of fireworks, persons under legal age purchasing or in  
18 possession of alcohol (second or subsequent offense),  
19 polygraph examinations by employers, certain interference with  
20 official acts offenses, and interference with signs or  
21 signals.

22 The bill provides discretion to the court to impose a jail  
23 sentence in addition to ordering a mandatory fine, for persons  
24 who commit the offense of driving under suspension or  
25 revocation or driving while barred under Code section 321J.21.  
26 Under current law, persons who violate Code section 321J.21  
27 may only be assessed a mandatory \$1,000 fine. A person whose  
28 driver's license has been suspended, revoked, or barred and is  
29 subsequently convicted under Code section 321J.21, generally  
30 has been suspended, revoked, or barred due to a previous  
31 operating while intoxicated conviction.

32 The bill also changes the threshold dollar limit for  
33 persons to qualify for serious and simple misdemeanor  
34 penalties with respect to acts which constitute theft,  
35 fraudulent practice, computer damage, computer theft, criminal

1 trespass, and criminal mischief. If a person commits theft,  
2 fraudulent practice, computer damage, computer theft, or  
3 criminal mischief and the value of the property is no more  
4 than \$200, the person commits a simple misdemeanor under the  
5 bill. Under current law, if the value of the property is no  
6 more than \$100, the person commits a simple misdemeanor. The  
7 bill further provides similar changes to the threshold dollar  
8 limit for serious misdemeanor violations involving theft,  
9 fraudulent practice, computer damage, computer theft, criminal  
10 trespass, and criminal mischief. If the value of the property  
11 exceeds \$200, under the bill, the person commits a serious  
12 misdemeanor. Under current laws, if the value of the property  
13 exceeds \$100, the person commits a serious misdemeanor.

- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

**SENATE FILE 189  
FISCAL NOTE**

---

The estimate for Senate File 189 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

This Bill changes the penalties for and reclassifies certain misdemeanors. The bill: imposes a scheduled fine for possession of alcohol by a minor; lowers driving under suspension to a simple from a serious misdemeanor and mandates a fine of \$250 to \$1,500; lowers defacing or possessing a traffic sign to a simple from a serious misdemeanor; lowers driving under suspension to a simple from a serious misdemeanor and mandates a fine of \$250 to \$1,500; changes the law for driving under suspension for drunk driving; makes certain use of fireworks a simple rather than a serious misdemeanor; raises the threshold amount of the least serious level of certain crimes from \$100 to \$200; makes the least serious interference with official acts charge a simple rather than a serious misdemeanor; makes certain uses of a polygraph in employer/employee circumstances a simple rather than a serious misdemeanor; and enhances the penalty for all simple misdemeanors from a maximum of \$100 or 30 days in jail to \$500 or 30 days in jail.

Current law allows counties to provide penalties not in excess of \$100 and 30 days in jail for violations of ordinances. The Bill raises the maximum fine to \$200.

**ASSUMPTIONS**

1. Charge, conviction and sentencing patterns, and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 1999. A lag effect of six months is assumed from the law's effective date to the date of entry into the system.
4. Costs and savings to the Indigent Defense Fund cannot be estimated because judges still have the ability to appoint counsel in simple misdemeanor cases.
5. In current serious misdemeanor drunk driving cases, judges impose jail time as well as a fine. The Bill changes the law to conform with current actual practices.
6. There will be a decrease of 1,110 admissions to probation and parole in FY 2000 and 2,221 annually thereafter.
7. The number of city and county ordinance violations as well as fine amounts cannot be determined.

**CORRECTIONAL IMPACT**

---

-2-

The correctional impact of Senate File 189 is expected to be minimal. Simple misdemeanants who will no longer receive probation because of the changes in this Bill typically receive the lowest levels of supervision and require minimal resources.

**FISCAL IMPACT**

Senate File 189 is expected to result in increased fines and fees to the General Fund of approximately \$2.4 million in FY 2000 and \$4.8 million in FY 2001 and each year thereafter.

**SOURCES**

Department of Corrections  
Criminal and Juvenile Justice Planning Division  
State Public Defender

(LSB 1658sv.2, CRS)

FILED APRIL 14, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

**SENATE FILE 189  
FISCAL NOTE**

---

The estimate for Senate File 189 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

This Bill changes the penalties for and reclassifies certain misdemeanors. The bill: imposes a scheduled fine for possession of alcohol by a minor; lowers driving under suspension to a simple from a serious misdemeanor and mandates a fine of \$250 to \$1,500; lowers defacing or possessing a traffic sign to a simple from a serious misdemeanor; lowers driving under suspension to a simple from a serious misdemeanor and mandates a fine of \$250 to \$1,500; changes the law for driving under suspension for drunk driving; makes certain use of fireworks a simple rather than a serious misdemeanor; raises the threshold amount of the least serious level of certain crimes from \$100 to \$200; makes the least serious interference with official acts charge a simple rather than a serious misdemeanor; makes certain uses of a polygraph in employer/employee circumstances a simple rather than a serious misdemeanor; and enhances the penalty for all simple misdemeanors from a maximum of \$100 or 30 days in jail to \$500 or 30 days in jail.

**ASSUMPTIONS**

1. Charge, conviction and sentencing patterns, and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 1999. A lag effect of six months is assumed from the law's effective date to the date of entry into the system.
4. Costs and savings to the Indigent Defense Fund cannot be estimated because judges still have the ability to appoint counsel in simple misdemeanor cases.
5. In current serious misdemeanor drunk driving cases, judges impose jail time as well as a fine. The Bill changes the law to conform with current actual practices.
6. There will be a decrease of 1,110 admissions to probation and parole in FY 2000 and 2,221 annually thereafter.

**CORRECTIONAL IMPACT**

The correctional impact of Senate File 189 is minimal. Simple misdemeanants who will no longer receive probation because of the changes in this Bill typically receive the lowest levels of supervision and require minimal resources.

**FISCAL IMPACT**

PAGE 2 , FISCAL NOTE, SENATE FILE 189

---

-2-

The fiscal impact of Senate File 189 is an increase of \$2.4 million in FY 2000 and \$4.8 million annually thereafter from fines and fees to be deposited into the General Fund.

**SOURCES**

Department of Corrections  
Criminal and Juvenile Justice Planning Division  
State Public Defender

(LSB 1658SV, CRS)

FILED FEBRUARY 24, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR



1 Section 1. Section 123.47, subsection 3, Code 1999, is  
2 amended to read as follows:

3 3. A person who is under legal age, other than a licensee  
4 or permittee, who violates this section regarding the purchase  
5 of or attempt to purchase alcoholic liquor, wine, or beer, or  
6 possessing or having control of alcoholic liquor, wine, or  
7 beer, commits a simple misdemeanor punishable by a fine of one  
8 hundred dollars for the first offense. A second or subsequent  
9 offense shall be a ~~serious~~ simple misdemeanor punishable by a  
10 fine of two hundred dollars and the suspension of the person's  
11 motor vehicle operating privileges for a period not to exceed  
12 one year. The court may, in its discretion, order the person  
13 who is under legal age to perform community service work under  
14 section 909.3A, of an equivalent value to the fine imposed  
15 under this section. However, if the person who commits the  
16 violation of this section is under the age of eighteen, the  
17 matter shall be disposed of in the manner provided in chapter  
18 232.

19 Sec. 2. Section 321.218, subsection 1, Code 1999, is  
20 amended to read as follows:

21 1. A person whose driver's license or operating privilege  
22 has been denied, canceled, suspended, or revoked as provided  
23 in this chapter or as provided in section 252J.8 or section  
24 901.5, subsection 10, and who operates a motor vehicle upon  
25 the highways of this state while the license or privilege is  
26 denied, canceled, suspended, or revoked, commits a ~~serious~~  
27 simple misdemeanor. In addition to any other penalties, a  
28 person sentenced under this subsection shall be assessed a  
29 fine of not less than two hundred fifty dollars nor more than  
30 one thousand five hundred dollars.

31 Sec. 3. Section 321.260, subsection 1, paragraph a, Code  
32 1999, is amended to read as follows:

33 a. A person who willfully and intentionally, without  
34 lawful authority, attempts to or in fact alters, defaces,  
35 injures, knocks down, or removes an official traffic-control

1 device, an authorized warning sign or signal or barricade,  
2 whether temporary or permanent, a railroad sign or signal, an  
3 inscription, shield or insignia on any of such devices, signs,  
4 signals, or barricades, or any other part thereof, shall, upon  
5 conviction, be guilty of a serious simple misdemeanor and  
6 shall be required to make restitution to the affected  
7 jurisdiction.

8 Sec. 4. Section 321.260, subsection 2, Code 1999, is  
9 amended to read as follows:

10 2. It shall be unlawful for any person to have in the  
11 person's possession any official traffic-control device except  
12 by legal right or authority. Any person convicted of  
13 unauthorized possession of any official traffic-control device  
14 shall upon conviction be guilty of a serious simple  
15 misdemeanor.

16 Sec. 5. Section 321A.32, subsection 1, Code 1999, is  
17 amended to read as follows:

18 1. Any person whose license or registration or  
19 nonresident's operating privilege has been suspended, denied  
20 or revoked under this chapter or continues to remain suspended  
21 or revoked under this chapter, and who, during such  
22 suspension, denial or revocation, or during such continuing  
23 suspension or continuing revocation, drives any motor vehicle  
24 upon any highway or knowingly permits any motor vehicle owned  
25 by such person to be operated by another upon any highway,  
26 except as permitted under this chapter, shall be guilty of a  
27 serious simple misdemeanor. In addition to any other  
28 penalties, a person sentenced under this subsection shall be  
29 assessed a fine of not less than two hundred fifty dollars nor  
30 more than one thousand five hundred dollars.

31 Sec. 6. Section 321J.21, subsection 1, Code 1999, is  
32 amended to read as follows:

33 1. A person whose driver's license or nonresident  
34 operating privilege has been suspended, denied, revoked, or  
35 barred due to a violation of this chapter and who drives a

1 motor vehicle while the license or privilege is suspended,  
2 denied, revoked, or barred commits a serious misdemeanor,  
3 ~~punishable with a mandatory fine of one thousand dollars.~~ In  
4 addition to any other penalties, a person sentenced under this  
5 section shall be assessed a fine of one thousand dollars.

6 Sec. 7. Section 331.302, subsection 2, Code 1999, is  
7 amended to read as follows:

8 2. A county shall not provide a penalty in excess of a one  
9 two hundred dollar fine or in excess of thirty days  
10 imprisonment for the violation of an ordinance. The criminal  
11 penalty surcharge required by section 911.2 shall be added to  
12 a county fine and is not a part of the county's penalty.

13 Sec. 8. Section 364.3, subsection 2, Code 1999, is amended  
14 to read as follows:

15 2. A city shall not provide a penalty in excess of a one  
16 two hundred dollar fine or in excess of thirty days  
17 imprisonment for the violation of an ordinance. An amount  
18 equal to ten percent of all fines collected by cities shall be  
19 deposited in the account established in section 602.8108.  
20 However, one hundred percent of all fines collected by a city  
21 pursuant to section 321.236, subsection 1, shall be retained  
22 by the city. The criminal penalty surcharge required by  
23 section 911.2 shall be added to a city fine and is not a part  
24 of the city's penalty.

25 Sec. 9. Section 461A.42, subsection 2, is amended to read  
26 as follows:

27 2. The use of fireworks, as defined in section 727.2, in  
28 state parks and preserves is prohibited except as authorized  
29 by a permit issued by the department. The commission shall  
30 establish, by rule adopted pursuant to chapter 17A, a  
31 fireworks permit system which authorizes the issuance of a  
32 limited number of permits to qualified persons to use or  
33 display fireworks in selected state parks and preserves. A  
34 person violating this subsection is guilty of a ~~serious~~ simple  
35 misdemeanor. The court ~~may~~ shall order restitution ~~for~~ if any

1 damages were caused by the violation which may include, but is  
2 not limited to, community service. ~~The court may also require~~  
3 ~~that the violator provide proof of restitution.~~

4 Sec. 10. Section 714.2, subsections 4 and 5, Code 1999,  
5 are amended to read as follows:

6 4. The theft of property exceeding one two hundred dollars  
7 in value but not exceeding five hundred dollars in value is  
8 theft in the fourth degree. Theft in the fourth degree is a  
9 serious misdemeanor.

10 5. The theft of property not exceeding one two hundred  
11 dollars in value is theft in the fifth degree. Theft in the  
12 fifth degree is a simple misdemeanor.

13 Sec. 11. Section 714.12, unnumbered paragraph 1, Code  
14 1999, is amended to read as follows:

15 Fraudulent practice in the fourth degree is a fraudulent  
16 practice where the amount of money or value of property or  
17 services involved exceeds one two hundred dollars but does not  
18 exceed five hundred dollars.

19 Sec. 12. Section 714.13, unnumbered paragraph 1, Code  
20 1999, is amended to read as follows:

21 Fraudulent practice in the fifth degree is a fraudulent  
22 practice where the amount of money or value of property or  
23 services involved does not exceed one two hundred dollars.

24 Sec. 13. Section 716.6, Code 1999, is amended to read as  
25 follows:

26 716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

27 Criminal mischief is criminal mischief in the fourth degree  
28 if the cost of replacing, repairing, or restoring the property  
29 so damaged, defaced, altered, or destroyed exceeds one two  
30 hundred dollars, but does not exceed five hundred dollars.

31 Criminal mischief in the fourth degree is a serious  
32 misdemeanor. All criminal mischief which is not criminal  
33 mischief in the first degree, second degree, third degree, or  
34 fourth degree is criminal mischief in the fifth degree.

35 Criminal mischief in the fifth degree is a simple misdemeanor.

1 Sec. 14. Section 716.8, subsection 2, Code 1999, is  
2 amended to read as follows:

3 2. Any person committing a trespass as defined in section  
4 716.7 which results in injury to any person or damage in an  
5 amount more than ~~one~~ two hundred dollars to anything, animate  
6 or inanimate, located thereon or therein commits a serious  
7 misdemeanor.

8 Sec. 15. Section 716.8, subsection 4, Code 1999, is  
9 amended to read as follows:

10 4. A person committing a trespass as defined in section  
11 716.7 with the intent to commit a hate crime which results in  
12 injury to any person or damage in an amount more than ~~one~~ two  
13 hundred dollars to anything, animate or inanimate, located  
14 thereon or therein commits an aggravated misdemeanor.

15 Sec. 16. Section 716A.7, Code 1999, is amended to read as  
16 follows:

17 716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

18 Computer damage is computer damage in the fourth degree  
19 when the damage results in a loss of property or services of  
20 more than ~~one~~ two hundred dollars but not more than five  
21 hundred dollars. Computer damage in the fourth degree is a  
22 serious misdemeanor.

23 Sec. 17. Section 716A.8, Code 1999, is amended to read as  
24 follows:

25 716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

26 Computer damage is computer damage in the fifth degree when  
27 the damage results in a loss of property or services of not  
28 more than ~~one~~ two hundred dollars. Computer damage in the  
29 fifth degree is a simple misdemeanor.

30 Sec. 18. Section 716A.13, Code 1999, is amended to read as  
31 follows:

32 716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

33 Computer theft is computer theft in the fourth degree when  
34 the theft involves or results in a loss of services or  
35 property of more than ~~one~~ two hundred dollars but not more

1 than five hundred dollars. Computer theft in the fourth  
2 degree is a serious misdemeanor.

3 Sec. 19. Section 716A.14, Code 1999, is amended to read as  
4 follows:

5 716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

6 Computer theft is computer theft in the fifth degree when  
7 the theft involves or results in a loss of services or  
8 property of not more than ~~one~~ two hundred dollars. Computer  
9 theft in the fifth degree is a simple misdemeanor.

10 Sec. 20. Section 719.1, subsection 1, Code 1999, is  
11 amended to read as follows:

12 1. A person who knowingly resists or obstructs anyone  
13 known by the person to be a peace officer, emergency medical  
14 care provider under chapter 147A, or fire fighter, whether  
15 paid or volunteer, in the performance of any act which is  
16 within the scope of the lawful duty or authority of that  
17 officer, emergency medical care provider under chapter 147A,  
18 or fire fighter, whether paid or volunteer, or who knowingly  
19 resists or obstructs the service or execution by any  
20 authorized person of any civil or criminal process or order of  
21 any court, commits a ~~serious~~ simple misdemeanor. However, if  
22 a person commits an interference with official acts, as  
23 defined in this subsection, and in so doing inflicts bodily  
24 injury other than serious injury, that person commits an  
25 aggravated misdemeanor. If a person commits an interference  
26 with official acts, as defined in this subsection, and in so  
27 doing inflicts or attempts to inflict serious injury, or  
28 displays a dangerous weapon, as defined in section 702.7, or  
29 is armed with a firearm, that person commits a class "D"  
30 felony.

31 Sec. 21. Section 727.2, unnumbered paragraph 2, Code 1999,  
32 is amended to read as follows:

33 A person, firm, copartnership, or corporation who offers  
34 for sale, exposes for sale, sells at retail, or uses or  
35 explodes any fireworks, commits a ~~serious~~ simple misdemeanor.

1 However, the council of a city or a county board of  
2 supervisors may, upon application in writing, grant a permit  
3 for the display of fireworks by municipalities, fair  
4 associations, amusement parks, and other organizations or  
5 groups of individuals approved by the city or the county board  
6 of supervisors when the fireworks display will be handled by a  
7 competent operator, but no such permit shall be required for  
8 the display of fireworks at the Iowa state fairgrounds by the  
9 Iowa state fair board, at incorporated county fairs, or at  
10 district fairs receiving state aid. Sales of fireworks for  
11 such display may be made for that purpose only.

12 Sec. 22. Section 730.4, subsection 6, Code 1999, is  
13 amended to read as follows:

14 6. A person who violates this section commits a ~~serious~~  
15 simple misdemeanor.

16 Sec. 23. Section 903.1, subsection 1, paragraph a, Code  
17 1999, is amended to read as follows:

18 a. For a simple misdemeanor, ~~either-imprisonment-not-to~~  
19 ~~exceed-thirty-days, or~~ there shall be a fine of at least fifty  
20 dollars but not to exceed ~~one~~ five hundred dollars. The court  
21 may order imprisonment not to exceed thirty days in lieu of a  
22 fine or in addition to a fine.

23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

HOUSE AMENDMENT TO  
SENATE FILE 189

S-3383

1 Amend Senate File 189, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 27 through 30 and  
4 inserting the following: "simple misdemeanor. In  
5 addition to any other penalties, the punishment  
6 imposed for a violation of this subsection shall  
7 include assessment of a fine of not less than two  
8 hundred fifty dollars nor more than one thousand five  
9 hundred dollars."

10 2. Page 2, line 7, by inserting after the word  
11 "jurisdiction." the following: "In addition to any  
12 other penalties, the punishment imposed for a  
13 violation of this subsection shall include assessment  
14 of a fine of not less than two hundred fifty dollars."

15 3. Page 2, line 15, by inserting after the word  
16 "misdemeanor." the following: "In addition to any  
17 other penalties, the punishment imposed for a  
18 violation of this subsection shall include assessment  
19 of a fine of not less than two hundred fifty dollars."

20 4. Page 2, by striking lines 28 and 29 and  
21 inserting the following: "penalties, the punishment  
22 imposed for a violation of this subsection shall  
23 include assessment of a fine of not less than two  
24 hundred fifty dollars nor".

25 5. Page 2, by inserting after line 30 the  
26 following:

27 "Sec. \_\_\_\_ . Section 321J.4, subsection 4, Code  
28 1999, is amended to read as follows:

29 4. a. Upon a plea or verdict of guilty of a third  
30 or subsequent violation of section 321J.2, the court  
31 shall order the department to revoke the defendant's  
32 driver's license or nonresident operating privilege  
33 for a period of six years. The defendant shall not be  
34 eligible for a temporary restricted license for at  
35 least one year after the effective date of the  
36 revocation. The court shall require the defendant to  
37 surrender to it all Iowa licenses or permits held by  
38 the defendant, which the court shall forward to the  
39 department with a copy of the order for revocation.  
40 The defendant shall be ordered to install an ignition  
41 interlock device of a type approved by the  
42 commissioner of public safety on all vehicles owned by  
43 the defendant if the defendant seeks a temporary  
44 restricted license at the end of the minimum period of  
45 ineligibility. A temporary restricted license shall  
46 not be granted by the department until the defendant  
47 installs the ignition interlock device.

48 b. However, if a defendant's driver's license is  
49 revoked for a third or subsequent violation of section  
50 321J.2 and the violations which resulted in the

S-3383

S-3383

Page 2

1 revocation did not occur within a twelve-year period,  
2 the person shall be permitted to apply to the  
3 department for restoration of the defendant's driving  
4 privileges. The application may be granted only if  
5 all of the following are shown by the defendant by a  
6 preponderance of the evidence:

7 (1) The defendant has completed an evaluation and,  
8 if recommended by the evaluation, a program of  
9 treatment for chemical dependency and is recovering,  
10 or has substantially recovered, from that dependency  
11 on or tendency to abuse alcohol or drugs.

12 (2) The defendant has not been convicted, since  
13 the date of the revocation order, of any subsequent  
14 violations of section 321J.2 or 123.46, or any  
15 comparable city or county ordinance, and the defendant  
16 has not, since the date of the revocation order,  
17 submitted to a chemical test under this chapter that  
18 indicated an alcohol concentration as defined in  
19 section 321J.1 of .10 or more, or refused to submit to  
20 chemical testing under this chapter.

21 (3) The defendant has abstained from the excessive  
22 consumption of alcoholic beverages and the consumption  
23 of controlled substances, except at the direction of a  
24 licensed physician or pursuant to a valid  
25 prescription.

26 (4) The defendant's motor vehicle license is not  
27 currently subject to suspension or revocation for any  
28 other reason.

29 c. The court shall forward to the department a  
30 record of any application submitted under paragraph  
31 "b" and the results of the court's disposition of the  
32 application."

33 6. Page 3, by striking lines 4 and 5, and  
34 inserting the following: "addition to any other  
35 penalties, the punishment imposed for a violation of  
36 this subsection shall include assessment of a fine of  
37 one thousand dollars."

38 7. Page 3, by inserting after line 12 the  
39 following:

40 "Sec. \_\_\_\_ . Section 331.302, subsection 4A,  
41 paragraph a, subparagraph (2), Code 1999, is amended  
42 to read as follows:

43 (2) A portion of the Code of Iowa may be adopted  
44 by reference only if the criminal penalty provided by  
45 the law adopted does not exceed thirty days'  
46 imprisonment or a ~~one~~ two hundred dollar fine."

47 8. Page 3, line 35, by inserting after the word  
48 "misdemeanor." the following: "In addition to any  
49 other penalties, the punishment imposed for a  
50 violation of this subsection shall include assessment

S-3383

-2-

S-3383

Page 3

1 of a fine of not less than two hundred fifty dollars."

2 9. Page 6, line 21, by inserting after the word  
3 "misdemeanor." the following: "In addition to any  
4 other penalties, the punishment imposed for a  
5 violation of this subsection shall include assessment  
6 of a fine of not less than two hundred fifty dollars."

7 10. Page 6, line 35, by inserting after the word  
8 "misdemeanor." the following: "In addition to any  
9 other penalties, the punishment imposed for a  
10 violation of this section shall include assessment of  
11 a fine of not less than two hundred fifty dollars."

12 11. Page 7, line 15, by inserting after the word  
13 "misdemeanor." the following: "In addition to any  
14 other penalties, the punishment imposed for a  
15 violation of this section shall include assessment of  
16 a fine of not less than two hundred fifty dollars."

17 12. Page 7, by inserting after line 22 the  
18 following:

19 "Sec. \_\_\_\_ . THIRD OFFENSE OWI REVOCATIONS. When  
20 revoking a defendant's driver's license under section  
21 321J.4, the court shall not consider a conviction  
22 under section 321J.2 which occurred on or prior to  
23 June 30, 1991, for the purpose of determining whether  
24 a conviction is a third or subsequent offense under  
25 section 321J.2. If a person whose license was revoked  
26 under section 321J.4, subsection 4, for three  
27 violations of section 321J.2, one of which occurred on  
28 or prior to June 30, 1991, the person may apply for  
29 reinstatement of the person's driving privileges and  
30 the court shall reinstate those privileges two years  
31 after the date of the order for revocation."

32 13. By renumbering, relettering, or redesignating  
33 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3383 FILED APRIL 14, 1999

*Senate Concurred*  
*4/28/99*  
*(P. 1343)*

SENATE FILE 189

S-3019

1 Amend Senate File 189 as follows:

2 1. Page 3, by inserting after line 5 the  
3 following:

4 "Sec. \_\_\_\_\_. Section 331.302, subsection 2, Code  
5 1999, is amended to read as follows:

6 2. A county shall not provide a penalty in excess  
7 of a one two hundred dollar fine or in excess of  
8 thirty days imprisonment for the violation of an  
9 ordinance. The criminal penalty surcharge required by  
10 section 911.2 shall be added to a county fine and is  
11 not a part of the county's penalty.

12 Sec. \_\_\_\_\_. Section 364.3, subsection 2, Code 1999,  
13 is amended to read as follows:

14 2. A city shall not provide a penalty in excess of  
15 a one two hundred dollar fine or in excess of thirty  
16 days imprisonment for the violation of an ordinance.  
17 An amount equal to ten percent of all fines collected  
18 by cities shall be deposited in the account  
19 established in section 602.8108. However, one hundred  
20 percent of all fines collected by a city pursuant to  
21 section 321.236, subsection 1, shall be retained by  
22 the city. The criminal penalty surcharge required by  
23 section 911.2 shall be added to a city fine and is not  
24 a part of the city's penalty."

25 2. By renumbering as necessary.

By JEFF LAMBERTI

-3019 FILED FEBRUARY 24, 1999  
OPTED

(P. 392)

SENATE FILE 189

H-1394

1 Amend Senate File 189, as amended, passed, and  
2 reprinted by the Senate as follows:

3 1. Page 1, by striking lines 27 through 30 and  
4 inserting the following: "simple misdemeanor. In  
5 addition to any other penalties, the punishment  
6 imposed for a violation of this subsection shall  
7 include assessment of a fine of not less than two  
8 hundred fifty dollars nor more than one thousand five  
9 hundred dollars."

10 2. Page 2, line 7, by inserting after the word  
11 "jurisdiction." the following: "In addition to any  
12 other penalties, the punishment imposed for a  
13 violation of this subsection shall include assessment  
14 of a fine of not less than two hundred fifty dollars."

15 3. Page 2, line 15, by inserting after the word  
16 "misdemeanor." the following: "In addition to any  
17 other penalties, the punishment imposed for a  
18 violation of this subsection shall include assessment  
19 of a fine of not less than two hundred fifty dollars."

20 4. Page 2, by striking lines 28 and 29 and  
21 inserting the following: "penalties, the punishment  
22 imposed for a violation of this subsection shall  
23 include assessment of a fine of not less than two  
24 hundred fifty dollars nor".

25 5. Page 3, by striking lines 4 and 5, and  
26 inserting the following: "addition to any other  
27 penalties, the punishment imposed for a violation of  
28 this subsection shall include assessment of a fine of  
29 one thousand dollars."

30 6. Page 3, line 35, by inserting after the word  
31 "misdemeanor." the following: "In addition to any  
32 other penalties, the punishment imposed for a  
33 violation of this subsection shall include assessment  
34 of a fine of not less than two hundred fifty dollars."

35 7. Page 6, line 21, by inserting after the word  
36 "misdemeanor." the following: "In addition to any  
37 other penalties, the punishment imposed for a  
38 violation of this subsection shall include assessment  
39 of a fine of not less than two hundred fifty dollars."

40 8. Page 6, line 35, by inserting after the word  
41 "misdemeanor." the following: "In addition to any  
42 other penalties, the punishment imposed for a  
43 violation of this section shall include assessment of  
44 a fine of not less than two hundred fifty dollars."

45 9. Page 7, line 15, by inserting after the word  
46 "misdemeanor." the following: "In addition to any  
47 other penalties, the punishment imposed for a  
48 violation of this section shall include assessment of  
49 a fine of not less than two hundred fifty dollars."

By COMMITTEE ON JUDICIARY  
LARSON of Linn, Chairperson

H-1394 FILED APRIL 5, 1999

*adopted*  
*4/14/99 (P.1300)*

## SENATE FILE 189

H-1465

1 Amend the amendment, H-1394, to Senate File 189, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, lines 7 and 8, by striking the words  
5 "two hundred fifty" and inserting the following: "one  
6 hundred".

7 2. Page 1, line 14, by striking the words "two  
8 hundred fifty" and inserting the following: "one  
9 hundred".

10 3. Page 1, line 19, by striking the words "two  
11 hundred fifty" and inserting the following: "one  
12 hundred".

13 4. Page 1, lines 23 and 24, by striking the words  
14 "two hundred fifty" and inserting the following: "one  
15 hundred".

16 5. Page 1, line 34, by striking the words "two  
17 hundred fifty" and inserting the following: "one  
18 hundred".

19 6. Page 1, line 44, by striking the words "two  
20 hundred fifty" and inserting the following: "one  
21 hundred".

22 7. Page 1, line 49, by striking the words "two  
23 hundred fifty" and inserting the following: "one  
24 hundred".

By KREIMAN of Davis

H-1465 FILED APRIL 6, 1999

W/D 4/14/99 (P.1300)

## SENATE FILE 189

H-1466

1 Amend Senate File 189, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 7, line 22, by inserting after the words  
4 "a fine." the following: "However, the court may  
5 waive the requirement for payment of a mandatory fine  
6 of two hundred fifty dollars or greater if the court  
7 finds that the payment of the fine would create an  
8 undue burden on the person's family."

By KREIMAN of Davis

PARMENTER of Story

H-1466 FILED APRIL 6, 1999

W/D 4/14/99 (P.1299)

## SENATE FILE 189

-1471

1 Amend Senate File 189, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 30 the  
4 following:

5 "Sec. \_\_\_\_ . Section 321J.4, subsection 4, Code  
6 1999, is amended to read as follows:

7 4. a. Upon a plea or verdict of guilty of a third  
8 or subsequent violation of section 321J.2, the court  
9 shall order the department to revoke the defendant's  
10 driver's license or nonresident operating privilege  
11 for a period of six years. The defendant shall not be  
12 eligible for a temporary restricted license for at  
13 least one year after the effective date of the  
14 revocation. The court shall require the defendant to  
15 surrender to it all Iowa licenses or permits held by  
16 the defendant, which the court shall forward to the  
17 department with a copy of the order for revocation.  
18 The defendant shall be ordered to install an ignition  
19 interlock device of a type approved by the  
20 commissioner of public safety on all vehicles owned by  
21 the defendant if the defendant seeks a temporary  
22 restricted license at the end of the minimum period of  
23 ineligibility. A temporary restricted license shall  
24 not be granted by the department until the defendant  
25 installs the ignition interlock device.

26 b. However, if a defendant's driver's license is  
27 revoked for a third or subsequent violation of section  
28 321J.2 and the violations which resulted in the  
29 revocation did not occur within a twelve-year period,  
30 the person shall be permitted to apply to the  
31 department for restoration of the defendant's driving  
32 privileges. The application may be granted only if  
33 all of the following are shown by the defendant by a  
34 preponderance of the evidence:

35 (1) The defendant has completed an evaluation and,  
36 if recommended by the evaluation, a program of  
37 treatment for chemical dependency and is recovering,  
38 or has substantially recovered, from that dependency  
39 on or tendency to abuse alcohol or drugs.

40 (2) The defendant has not been convicted, since  
41 the date of the revocation order, of any subsequent  
42 violations of section 321J.2 or 123.46, or any  
43 comparable city or county ordinance, and the defendant  
44 has not, since the date of the revocation order,  
45 submitted to a chemical test under this chapter that  
46 indicated an alcohol concentration as defined in  
47 section 321J.1 of .10 or more, or refused to submit to  
48 chemical testing under this chapter.

49 (3) The defendant has abstained from the excessive  
50 consumption of alcoholic beverages and the consumption

-1471

-1-

H-1471

Page 2

1 of controlled substances, except at the direction of a  
2 licensed physician or pursuant to a valid  
3 prescription.

4 (4) The defendant's motor vehicle license is not  
5 currently subject to suspension or revocation for any  
6 other reason.

7 c. The court shall forward to the department a  
8 record of any application submitted under paragraph  
9 "b" and the results of the court's disposition of the  
10 application."

11 2. Page 7, by inserting after line 22 the  
12 following:

13 "Sec. \_\_\_\_ . THIRD OFFENSE OWI REVOCATIONS. When  
14 revoking a defendant's driver's license under section  
15 321J.4, the court shall not consider a conviction  
16 under section 321J.2 which occurred on or prior to  
17 June 30, 1991, for the purpose of determining whether  
18 a conviction is a third or subsequent offense under  
19 section 321J.2. If a person whose license was revoked  
20 under section 321J.4, subsection 4, for three  
21 violations of section 321J.2, one of which occurred on  
22 or prior to June 30, 1991, the person may apply for  
23 reinstatement of the person's driving privileges and  
24 the court shall reinstate those privileges two years  
25 after the date of the order for revocation."

By KREIMAN of Davis  
FALCK of Fayette  
PARMENTER of Story

H-1471 FILED APRIL 6, 1999

*Adopted*  
*4/14/99 (p.128)*

## SENATE FILE 189

H-1499

1 Amend Senate File 189, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 7, by inserting after line 15 the  
4 following:

5 "Sec. \_\_\_\_\_. Section 804.21, subsection 4, Code  
6 1999, is amended to read as follows:

7 4. When the court is not in session, a person  
8 arrested and placed in jail may be released on the  
9 person's own recognizance with or without other  
10 conditions, by the verbal or written order of a judge  
11 or magistrate. The verbal order may be communicated  
12 by telephone. The judge or magistrate may issue such  
13 order of release only upon the request of an attorney  
14 or person believed by the judge or magistrate to be  
15 reliable. However, this paragraph shall not apply to  
16 violations of section 321.218, 321.561, 321A.32, and  
17 321J.21 or for an arrest by warrant for failure to  
18 appear for such offenses.

19 Sec. \_\_\_\_\_. Section 805.6, subsection 1, paragraph  
20 d, Code 1999, is amended to read as follows:

21 d. The written appearance defined in paragraph "b"  
22 shall not be used for any offense other than a simple  
23 misdemeanor and shall not be used for violations of  
24 sections 321.218, 321.561, 321A.32, and 321J.21.

25 Sec. \_\_\_\_\_. Section 811.2, subsection 2, Code 1999,  
26 is amended to read as follows:

27 2. DETERMINATION OF CONDITIONS. In determining  
28 which conditions of release will reasonably assure the  
29 defendant's appearance and the safety of another  
30 person or persons, the magistrate shall, on the basis  
31 of available information, take into account the nature  
32 and circumstances of the offense charged, the  
33 defendant's family ties, employment, financial  
34 resources, character and mental condition, the length  
35 of the defendant's residence in the community, the  
36 defendant's record of convictions, and the defendant's  
37 record of appearance at court proceedings or of flight  
38 to avoid prosecution or failure to appear at court  
39 proceedings. A defendant whose driver's license has  
40 been suspended pursuant to section 321.210A for  
41 failure to pay a fine, penalty, surcharge, or court  
42 costs shall be deemed not a good risk to appear and  
43 the defendant shall be required to execute an  
44 appearance bond or bail bond."

45 2. By renumbering as necessary.

By LARSON of Linn

H-1499 FILED APRIL 7, 1999

W/D  
4/14/99 (p. 1299)

H-1614

1 Amend Senate File 189, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 3, by inserting after line 12 the  
4 following:

5 "Sec. \_\_\_\_ . Section 331.302, subsection 4A,  
6 paragraph a, subparagraph (2), Code 1999, is amended  
7 to read as follows:

8 (2) A portion of the Code of Iowa may be adopted  
9 by reference only if the criminal penalty provided by  
10 the law adopted does not exceed thirty days'  
11 imprisonment or a one two hundred dollar fine."

12 2. By renumbering as necessary.

By RAECKER of Polk  
KREIMAN of Davis

H-1614 FILED APRIL 14, 1999

*Adopted 4/14/99 (p. 1299)*

## SENATE AMENDMENT TO HOUSE AMENDMENT TO S. F. 189

H-1866

1 Amend the House amendment, S-3383, to Senate File  
2 189, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. By striking page 1, line 25, through page 2,  
5 line 32.

6 2. Page 3, by striking lines 19 and 20 and  
7 inserting the following:

8 "Sec. \_\_\_\_ . THIRD OFFENSE OWI REVOCATIONS.

9 1. When revoking a defendant's driver's license  
10 under section".

11 3. Page 3, by inserting after line 31 the  
12 following:

13 "2. a. If a defendant's driver's license is  
14 revoked for a third or subsequent violation of section  
15 321J.2 and one or more of the violations which  
16 resulted in the revocation occurred before June 30,  
17 1991, the person shall be permitted to apply to the  
18 court for restoration of the defendant's driving  
19 privileges. The application may be granted only if  
20 all of the following are shown by the defendant by a  
21 preponderance of the evidence:

22 (1) The defendant has completed an evaluation and,  
23 if recommended by the evaluation, a program of  
24 treatment for chemical dependency and is recovering,  
25 or has substantially recovered, from that dependency  
26 on or tendency to abuse alcohol or drugs.

27 (2) The defendant has not been convicted, since  
28 the date of the revocation order, of any subsequent  
29 violations of section 321J.2 or 123.46, or any  
30 comparable city or county ordinance, and the defendant  
31 has not, since the date of the revocation order,  
32 submitted to a chemical test under this chapter that  
33 indicated an alcohol concentration as defined in  
34 section 321J.1 of .10 or more, or refused to submit to  
35 chemical testing under this chapter.

36 (3) The defendant has abstained from the excessive  
37 consumption of alcoholic beverages and the consumption  
38 of controlled substances, except at the direction of a  
39 licensed physician or pursuant to a valid  
40 prescription.

41 (4) The defendant's motor vehicle license is not  
42 currently subject to suspension or revocation for any  
43 other reason.

44 b. The court shall forward to the department a  
45 record of any application submitted under paragraph  
46 "a" and the results of the court's disposition of the  
47 application.""

48 4. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-1866 FILED APRIL 28, 1999

*House Concurred*  
4-28-99  
(P. 1846)

## SENATE FILE 189

503

1 Amend the House amendment, S-3383, to Senate File  
2 189, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. By striking page 1, line 25, through page 2,  
5 line 32.

6 2. Page 3, by striking lines 19 and 20 and  
7 inserting the following:

8 ""Sec. \_\_\_\_ . THIRD OFFENSE OWI REVOCATIONS.

9 1. When revoking a defendant's driver's license  
10 under section".

11 3. Page 3, by inserting after line 31 the  
12 following:

13 "2. a. If a defendant's driver's license is  
14 revoked for a third or subsequent violation of section  
15 321J.2 and one or more of the violations which  
16 resulted in the revocation occurred before June 30,  
17 1991, the person shall be permitted to apply to the  
18 court for restoration of the defendant's driving  
19 privileges. The application may be granted only if  
20 all of the following are shown by the defendant by a  
21 preponderance of the evidence:

22 (1) The defendant has completed an evaluation and,  
23 if recommended by the evaluation, a program of  
24 treatment for chemical dependency and is recovering,  
25 or has substantially recovered, from that dependency  
26 on or tendency to abuse alcohol or drugs.

27 (2) The defendant has not been convicted, since  
28 the date of the revocation order, of any subsequent  
29 violations of section 321J.2 or 123.46, or any  
30 comparable city or county ordinance, and the defendant  
31 has not, since the date of the revocation order,  
32 submitted to a chemical test under this chapter that  
33 indicated an alcohol concentration as defined in  
34 section 321J.1 of .10 or more, or refused to submit to  
35 chemical testing under this chapter.

36 (3) The defendant has abstained from the excessive  
37 consumption of alcoholic beverages and the consumption  
38 of controlled substances, except at the direction of a  
39 licensed physician or pursuant to a valid  
40 prescription.

41 (4) The defendant's motor vehicle license is not  
42 currently subject to suspension or revocation for any  
43 other reason.

44 b. The court shall forward to the department a  
45 record of any application submitted under paragraph  
46 "a" and the results of the court's disposition of the  
47 application.""

48 4. By renumbering as necessary.

By ANDY McKEAN  
JEFF LAMBERTI

S-3503 FILED APRIL 27, 1999

*Adopted*  
*4/28/99*  
*(P.1343)*

AN ACT  
TO CHANGE THE PENALTY FOR AND TO RECLASSIFY CERTAIN  
MISDEMEANORS.

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

Section 1. Section 123.47, subsection 3, Code 1999, is amended to read as follows:

3. A person who is under legal age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits a simple misdemeanor punishable by a fine of one hundred dollars for the first offense. A second or subsequent offense shall be a serious simple misdemeanor punishable by a fine of two hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year. The court may, in its discretion, order the person who is under legal age to perform community service work under section 909.3A, of an equivalent value to the fine imposed under this section. However, if the person who commits the violation of this section is under the age of eighteen, the matter shall be disposed of in the manner provided in chapter 232.

Sec. 2. Section 321.218, subsection 1, Code 1999, is amended to read as follows:

1. A person whose driver's license or operating privilege has been denied, canceled, suspended, or revoked as provided in this chapter or as provided in section 252J.8 or section 901.5, subsection 10, and who operates a motor vehicle upon the highways of this state while the license or privilege is denied, canceled, suspended, or revoked, commits a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars nor more than one thousand five hundred dollars.

Sec. 3. Section 321.260, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. A person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes an official traffic-control device, an authorized warning sign or signal or barricade, whether temporary or permanent, a railroad sign or signal, an inscription, shield or insignia on any of such devices, signs, signals, or barricades, or any other part thereof, shall, upon conviction, be guilty of a serious simple misdemeanor and shall be required to make restitution to the affected jurisdiction. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars.

Sec. 4. Section 321.260, subsection 2, Code 1999, is amended to read as follows:

2. It shall be unlawful for any person to have in the person's possession any official traffic-control device except by legal right or authority. Any person convicted of unauthorized possession of any official traffic-control device shall upon conviction be guilty of a serious simple misdemeanor. In addition to any other penalties, the

punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars.

Sec. 5. Section 321A.32, subsection 1, Code 1999, is amended to read as follows:

1. Any person whose license or registration or nonresident's operating privilege has been suspended, denied or revoked under this chapter or continues to remain suspended or revoked under this chapter, and who, during such suspension, denial or revocation, or during such continuing suspension or continuing revocation, drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this chapter, shall be guilty of a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars nor more than one thousand five hundred dollars.

Sec. 6. Section 321J.21, subsection 1, Code 1999, is amended to read as follows:

1. A person whose driver's license or nonresident operating privilege has been suspended, denied, revoked, or barred due to a violation of this chapter and who drives a motor vehicle while the license or privilege is suspended, denied, revoked, or barred commits a serious misdemeanor, ~~punishable with a mandatory fine of one thousand dollars.~~ In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of one thousand dollars.

Sec. 7. Section 331.302, subsection 2, Code 1999, is amended to read as follows:

2. A county shall not provide a penalty in excess of a one two hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. The criminal

penalty surcharge required by section 911.2 shall be added to a county fine and is not a part of the county's penalty.

Sec. 8. Section 331.302, subsection 4A, paragraph a, subparagraph (2), Code 1999, is amended to read as follows:

(2) A portion of the Code of Iowa may be adopted by reference only if the criminal penalty provided by the law adopted does not exceed thirty days' imprisonment or a one two hundred dollar fine.

Sec. 9. Section 364.3, subsection 2, Code 1999, is amended to read as follows:

2. A city shall not provide a penalty in excess of a one two hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of all fines collected by cities shall be deposited in the account established in section 602.8108. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city. The criminal penalty surcharge required by section 911.2 shall be added to a city fine and is not a part of the city's penalty.

Sec. 10. Section 461A.42, subsection 2, Code 1999, is amended to read as follows:

2. The use of fireworks, as defined in section 727.2, in state parks and preserves is prohibited except as authorized by a permit issued by the department. The commission shall establish, by rule adopted pursuant to chapter 17A, a fireworks permit system which authorizes the issuance of a limited number of permits to qualified persons to use or display fireworks in selected state parks and preserves. A person violating this subsection is guilty of a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. The court ~~may~~ shall order restitution for if any damages were caused by the violation which may include,

but is not limited to, community service. ~~The court may also require that the violator provide proof of restitution.~~

Sec. 11. Section 714.2, subsections 4 and 5, Code 1999, are amended to read as follows:

4. The theft of property exceeding one two hundred dollars in value but not exceeding five hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a serious misdemeanor.

5. The theft of property not exceeding one two hundred dollars in value is theft in the fifth degree. Theft in the fifth degree is a simple misdemeanor.

Sec. 12. Section 714.12, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Fraudulent practice in the fourth degree is a fraudulent practice where the amount of money or value of property or services involved exceeds one two hundred dollars but does not exceed five hundred dollars.

Sec. 13. Section 714.13, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Fraudulent practice in the fifth degree is a fraudulent practice where the amount of money or value of property or services involved does not exceed one two hundred dollars.

Sec. 14. Section 716.6, Code 1999, is amended to read as follows:

716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

Criminal mischief is criminal mischief in the fourth degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds one two hundred dollars, but does not exceed five hundred dollars. Criminal mischief in the fourth degree is a serious misdemeanor. All criminal mischief which is not criminal mischief in the first degree, second degree, third degree, or fourth degree is criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a simple misdemeanor.

Sec. 15. Section 716.8, subsection 2, Code 1999, is amended to read as follows:

2. Any person committing a trespass as defined in section 716.7 which results in injury to any person or damage in an amount more than one two hundred dollars to anything, animate or inanimate, located thereon or therein commits a serious misdemeanor.

Sec. 16. Section 716.8, subsection 4, Code 1999, is amended to read as follows:

4. A person committing a trespass as defined in section 716.7 with the intent to commit a hate crime which results in injury to any person or damage in an amount more than one two hundred dollars to anything, animate or inanimate, located thereon or therein commits an aggravated misdemeanor.

Sec. 17. Section 716A.7, Code 1999, is amended to read as follows:

716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

Computer damage is computer damage in the fourth degree when the damage results in a loss of property or services of more than one two hundred dollars but not more than five hundred dollars. Computer damage in the fourth degree is a serious misdemeanor.

Sec. 18. Section 716A.8, Code 1999, is amended to read as follows:

716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

Computer damage is computer damage in the fifth degree when the damage results in a loss of property or services of not more than one two hundred dollars. Computer damage in the fifth degree is a simple misdemeanor.

Sec. 19. Section 716A.13, Code 1999, is amended to read as follows:

716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

Computer theft is computer theft in the fourth degree when the theft involves or results in a loss of services or property of more than one two hundred dollars but not more

than five hundred dollars. Computer theft in the fourth degree is a serious misdemeanor.

Sec. 20. Section 716A.14, Code 1999, is amended to read as follows:

716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

Computer theft is computer theft in the fifth degree when the theft involves or results in a loss of services or property of not more than one two hundred dollars. Computer theft in the fifth degree is a simple misdemeanor.

Sec. 21. Section 719.1, subsection 1, Code 1999, is amended to read as follows:

1. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor. If a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits a class "D" felony.

Sec. 22. Section 727.2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A person, firm, copartnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any fireworks, commits a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this section shall include assessment of a fine of not less than two hundred fifty dollars. However, the council of a city or a county board of supervisors may, upon application in writing, grant a permit for the display of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the city or the county board of supervisors when the fireworks display will be handled by a competent operator, but no such permit shall be required for the display of fireworks at the Iowa state fairgrounds by the Iowa state fair board, at incorporated county fairs, or at district fairs receiving state aid. Sales of fireworks for such display may be made for that purpose only.

Sec. 23. Section 730.4, subsection 6, Code 1999, is amended to read as follows:

6. A person who violates this section commits a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this section shall include assessment of a fine of not less than two hundred fifty dollars.

Sec. 24. Section 903.1, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. For a simple misdemeanor, ~~either imprisonment not to exceed thirty days, or~~ there shall be a fine of at least fifty dollars but not to exceed one five hundred dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.

Sec. 25. THIRD OFFENSE OWI REVOCATIONS.

1. When revoking a defendant's driver's license under section 321J.4, the court shall not consider a conviction under section 321J.2 which occurred on or prior to June 30,

1991, for the purpose of determining whether a conviction is a third or subsequent offense under section 321J.2. If a person whose license was revoked under section 321J.4, subsection 4, for three violations of section 321J.2, one of which occurred on or prior to June 30, 1991, the person may apply for reinstatement of the person's driving privileges and the court shall reinstate those privileges two years after the date of the order for revocation.

2. a. If a defendant's driver's license is revoked for a third or subsequent violation of section 321J.2 and one or more of the violations which resulted in the revocation occurred before June 30, 1991, the person shall be permitted to apply to the court for restoration of the defendant's driving privileges. The application may be granted only if all of the following are shown by the defendant by a preponderance of the evidence:

(1) The defendant has completed an evaluation and, if recommended by the evaluation, a program of treatment for chemical dependency and is recovering, or has substantially recovered, from that dependency on or tendency to abuse alcohol or drugs.

(2) The defendant has not been convicted, since the date of the revocation order, of any subsequent violations of section 321J.2 or 123.46, or any comparable city or county ordinance, and the defendant has not, since the date of the revocation order, submitted to a chemical test under this chapter that indicated an alcohol concentration as defined in section 321J.1 of .10 or more, or refused to submit to chemical testing under this chapter.

(3) The defendant has abstained from the excessive consumption of alcoholic beverages and the consumption of controlled substances, except at the direction of a licensed physician or pursuant to a valid prescription.

(4) The defendant's motor vehicle license is not currently subject to suspension or revocation for any other reason.

b. The court shall forward to the department a record of any application submitted under paragraph "a" and the results of the court's disposition of the application.

---

MARY E. KRAMER  
President of the Senate

---

BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 189, Seventy-eighth General Assembly.

---

MICHAEL E. MARSHALL  
Secretary of the Senate

Approved May 20, 1999

---

THOMAS J. VILSACK  
Governor