

**CHAPTER 1090**

## MISCELLANEOUS TRANSPORTATION-RELATED SANCTIONS

S.F. 2186

**AN ACT** relating to transportation-related sanctions by increasing penalties for certain offenses, providing for the issuance of temporary restricted licenses for certain offenses, providing scheduled fines for various violations, and prohibiting certain activities of motor vehicle dealers.

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

Section 1. Section 123.48, subsection 1, Code 1995, is amended to read as follows:

1. If a liquor control licensee or wine or beer permittee or an employee of the licensee or permittee has a reasonable belief based on factual evidence that a motor vehicle license as defined in section 321.1, subsection 43, or nonoperator identification card issued pursuant to section 321.190 offered by a person who wishes to purchase an alcoholic beverage at the licensed premises is altered or falsified or belongs to another person, the licensee, permittee, or employee may retain the motor vehicle license or nonoperator identification card. Within twenty-four hours, the card shall be delivered to the appropriate city or county law enforcement agency of the jurisdiction in which the licensed premises is located. When the card is delivered to the appropriate law enforcement agency, the licensee shall file a written report of the circumstances under which the card was retained. The local law enforcement agency may investigate whether a violation of section ~~321.190~~, 321.216, 321.216A, or 321.216B has occurred. If an investigation is not initiated or a probable cause is not established by the local law enforcement agency, the motor vehicle license or nonoperator identification card shall be delivered to the person to whom it was issued. The local law enforcement agency may forward the card with the report to the department of transportation for investigation, in which case, the department may investigate whether a violation of section ~~321.190~~, 321.216, 321.216A, or 321.216B has occurred. The department of transportation shall return the card to the person to whom it was issued if an investigation is not initiated or a probable cause is not established.

Sec. 2. Section 321.190, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 3. Section 321.216, Code 1995, is amended to read as follows:

**321.216 UNLAWFUL USE OF LICENSE AND NONOPERATOR'S IDENTIFICATION CARD - PENALTY.**

It is a simple misdemeanor for any person:

1. To display or cause or permit to be displayed or have in the person's possession a canceled, revoked, suspended, fictitious, or fraudulently altered motor vehicle license or nonoperator's identification card.

2. To lend that person's motor vehicle license or nonoperator's identification card to another person or knowingly permit the use of the license by another.

3. To display or represent as one's own a motor vehicle license or nonoperator's identification card not issued to that person.

4. To fail or refuse to surrender to the department upon its lawful demand a motor vehicle license or nonoperator's identification card which has been suspended, revoked, or canceled.

5. ~~To use a false or fictitious name in an application for a motor vehicle license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in the application.~~

6. 5. To permit an unlawful use of a motor vehicle license or nonoperator's identification card issued to that person.

7. ~~To obtain, possess or have in one's control or on one's premises blank motor vehicle license forms.~~

~~8. To obtain, possess, or have in one's control or on one's premises a motor vehicle license, a nonoperator's identification card, or a blank motor vehicle license form, which has been made by a person having no authority or right to make the license, card, or form.~~

Sec. 4. Section 321.216A, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

**321.216A FALSIFYING MOTOR VEHICLE LICENSES AND NONOPERATOR'S IDENTIFICATION CARDS AND FORMS.**

It is a serious misdemeanor for a person to do any of the following:

1. Make a motor vehicle license, a nonoperator's vehicle identification card, or a blank motor vehicle license form if the person has no authority or right to make the license, card, or form.

2. Obtain, possess, or have in the person's control or on the person's premises motor vehicle license or nonoperator's identification card forms.

3. Obtain, possess, or have in the person's control or on the person's premises, a motor vehicle license or a nonoperator's identification card, or blank motor vehicle license or nonoperator's identification card form which has been made by a person having no authority or right to make the license, card, or form.

4. Use a false or fictitious name in any application for a motor vehicle license or nonoperator's identification card or to knowingly make a false statement or knowingly conceal a material fact or otherwise commit fraud on an application.

Sec. 5. Section 321.216B, Code 1995, is amended to read as follows:

**321.216B USE OF MOTOR VEHICLE LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN ALCOHOL.**

A person who is under the age of twenty-one, who alters or displays or has in the person's possession a fictitious or fraudulently altered motor vehicle license or nonoperator's identification card and who uses the license to violate or attempt to violate section 123.47 or 123.47A, commits a simple misdemeanor. The court shall forward a copy of the conviction or order of adjudication under section 232.47 to the department.

Sec. 6. Section 321.218, subsections 1, 4, and 5, Code Supplement 1995, are amended to read as follows:

1. A person whose motor vehicle license or operating privilege has been denied, canceled, suspended, or revoked as provided in this chapter or as provided in section 252J.8, 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 misdemeanor.

4. The department, upon receiving the record of the conviction of a person under this section upon a charge of operating a motor vehicle while the license of the person is suspended or revoked, shall, except for licenses suspended under section 252J.8, 321.210, subsection 1, paragraph "c", 321.210A, 321.210B, or 321.513, extend the period of suspension or revocation for an additional like period, and the department shall not issue a new motor vehicle license to the person during the additional period.

If the department receives a record of a conviction of a person under this section but the person's driving record does not indicate what the original grounds of suspension were, the period of suspension under this subsection shall be for a period not to exceed six months.

5. A person who operates a commercial motor vehicle upon the highways of this state when disqualified from operating the commercial motor vehicle under section 321.208 commits a ~~simple~~ serious misdemeanor if a commercial driver's license is required for the person to operate the commercial motor vehicle.

Sec. 7. Section 321.218, subsection 2, Code Supplement 1995, is amended by striking the subsection.

Sec. 8. Section 321E.16, Code 1995, is amended to read as follows:

**321E.16 VIOLATIONS - PENALTIES.**

~~Any A person who is convicted of a violation of any violates a provision of a permit issued pursuant to this chapter or of rules adopted under section 321E.15, other than length, height, width, or a provision relating to weight allowed by any permit issued under this chapter shall be punished by a subject to a scheduled fine of one hundred dollars for the first conviction, two hundred fifty dollars for a second conviction within a twelve month period, and five hundred dollars for a third conviction within a twelve month period under section 805.8, subsection 2. The fine for violation of the length, height, width, and weight allowed by a permit shall be based upon the difference between the actual length, height, width, and weight of the vehicle and load and the maximum allowable by permit and in accordance with section 321.482 for violations of length, height, or width limitations and sections 321.482 and 321.463 for violation of weight limitations. If a vehicle with an indivisible load traveling under permit is found to be in violation of weight limitations, the vehicle operator shall be allowed a reasonable amount of time to remove any ice, mud, snow, and other weight attributable to climatic conditions accumulated along the route prior to application of the penalties prescribed in sections section 321.463 and 321.482. The department shall adopt rules to require peace officer escorts for permit holders convicted for the third time in a twelve month period of violating a provision of this chapter or a provision of rules adopted pursuant to section 321E.15.~~

Sec. 9. Section 321J.4, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

If a defendant is convicted of a violation of section 321J.2 and the defendant's motor vehicle license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 for the occurrence from which the arrest arose, the department shall revoke the defendant's motor vehicle license or nonresident operating privilege for one hundred eighty days if the defendant has had no previous conviction or revocation under this chapter within the previous six years and the defendant shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained, and for at least ninety days if a test was refused. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

Sec. 10. Section 321J.4, subsection 2, Code Supplement 1995, is amended to read as follows:

2. If the court defers judgment pursuant to section 907.3 for a violation of section 321J.2, and if the defendant's motor vehicle license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12, or has not otherwise been revoked for the occurrence from which the arrest arose, the department shall revoke the defendant's motor vehicle license or nonresident operating privilege for a period of not less than thirty days nor more than ninety days. The defendant shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained and for at least ninety days if a test was refused. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

Sec. 11. Section 321J.4, subsection 8, Code Supplement 1995, is amended to read as follows:

8. A person whose motor vehicle license has either been revoked under this chapter, or revoked or suspended under chapter 321 solely for violations of this chapter, or who has been determined to be a habitual offender under chapter 321 based solely on violations of this chapter, and who is not eligible for a temporary restricted license under this chapter may petition the court upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under this section or section 321J.9, 321J.12, or 321J.20 for an order to the department to require the department to issue a temporary

restricted license to the person notwithstanding section 321.560. Upon the filing of a petition for a temporary restricted license under this section, the clerk of the district court in the county where the violation that resulted in the revocation occurred shall send notice of the petition to the department and the prosecuting attorney. The department and the prosecuting attorney shall each be given an opportunity to respond to and request a hearing on the petition. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present employment. However, a temporary restricted license shall not be ordered or issued for ~~violations~~ a violation of section 321J.2A or to ~~persons~~ a person under the age of twenty-one ~~who commit violations under section 321J.2 whose license is revoked under section 321J.4, 321J.9, or 321J.12.~~ If the court determines that the temporary restricted license is necessary for the person to maintain the person's present employment, and that the minimum period of ineligibility for receipt of a temporary license has expired, the court shall order the department to issue to the person a temporary restricted license conditioned upon the person's certification to the court of the installation of approved ignition interlock devices in all motor vehicles that it is necessary for the person to operate to maintain the person's present employment. Section 321.561 does not apply to a person operating a motor vehicle in the manner permitted under this subsection. If the person operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked. A person holding a temporary restricted license issued under this subsection shall not operate a commercial motor vehicle, as defined in section 321.1, on a highway if a commercial driver's license is required for the person to operate the commercial motor vehicle.

Sec. 12. Section 321J.12, subsection 2, Code Supplement 1995, is amended to read as follows:

2. A person whose motor vehicle license or nonresident operating privileges have been revoked under subsection 1, paragraph "a", shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation. If the person is under the age of twenty-one, the person shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation. A person whose license or privileges have been revoked under subsection 1, paragraph "b", for one year shall not be eligible for any temporary restricted license for one year after the effective date of the revocation.

Sec. 13. Section 322.3, Code 1995, is amended to read as follows:

### 322.3 PROHIBITED ACTS.

1. ~~No~~ A person shall not engage in this state in the business of selling at retail new motor vehicles of any make or represent or advertise that the person is engaged or intends to engage in such business in this state unless the person is authorized to do so by a contract in writing with the manufacturer or distributor of such make of new motor vehicles ~~to so dispose thereof in this state~~ and unless the department has licensed the person as a motor vehicle dealer in this state in motor vehicles of such make and has issued to the person a license in writing as provided in this chapter ~~provided~~.

2. ~~No~~ A person, other than a licensed dealer in new motor vehicles, shall not engage in this state in the business of selling at retail used motor vehicles or represent or advertise that the person is engaged or intends to engage in such business in this state unless and until the department has licensed ~~such~~ the person as a used motor vehicle dealer in the state and has issued to the person a license in writing as provided in this chapter ~~provided~~.

3. ~~Nothing contained in subsections~~ Subsections 1 and 2 hereof shall not be construed ~~as requiring to require~~ the separate licensing of persons employed as salespersons of motor vehicles by a retail motor vehicle dealer ~~hereunder, but, However,~~ the department is ~~hereby authorized and empowered to make, publish, and may promulgate such~~ reasonable

rules and regulations as it may deem necessary for the proper identification of persons so employed as salespersons by any such licensee.

4. ~~No~~ A person, who is engaged in the business of selling at retail motor vehicles, shall not enter into any contract, agreement, or understanding, express or implied, with any manufacturer or distributor of any such motor vehicles that the person will sell, assign, or transfer any retail installment contracts arising from the retail installment sale of such motor vehicles ~~or any one or more thereof~~ only to a designated person or class of persons. ~~Any such~~ A condition, agreement, or understanding between any manufacturer or distributor and a motor vehicle dealer in this state of this nature is hereby declared to be against the public policy of this state and to be unlawful and void.

5. ~~No~~ A manufacturer or distributor of motor vehicles or any agent or representative of ~~such a~~ manufacturer or distributor, shall not terminate or threaten to terminate, or fail to renew any contract, agreement, or understanding for the sale of new motor vehicles to any motor vehicle dealer in this state without just, reasonable and lawful cause ~~therefor~~ or because ~~such~~ the motor vehicle dealer failed to sell, assign, or transfer any retail installment contract arising from the retail sale of such motor vehicles or any one or more of them to a person or a class of persons designated by ~~such the~~ manufacturer or distributor. ~~Provided, however, that the provisions of this subsection relating to "failure to renew" shall not apply to any contract, agreement, or understanding, which is for a term of five or more years.~~

6. ~~No~~ A person, who is engaged in the business of selling at retail motor vehicles, shall not make and enter into a retail installment contract unless ~~such~~ the contract meets the following requirements:

a. Every retail installment contract shall be in writing, shall be signed by both the buyer and the seller and shall be completed as to all essential provisions prior to the signing of the contract by the buyer except that, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers or marks of the motor vehicle or similar information and the due date of the first installment may be inserted in the contract after its execution.

b. The contract shall comply with the Iowa consumer credit code, where applicable.

7. ~~Nothing contained herein~~ This section shall not be construed to require that a place of business as defined in this chapter shall be maintained by a person selling motor vehicles at retail solely for the purpose of disposing of motor vehicles acquired or repossessed by such person in exercise of powers or rights granted by lien or title-retention instruments or contracts given as security for loans or purchase money obligations.

8. ~~No~~ A manufacturer or distributor of motor vehicles or agent or representative of ~~such a~~ manufacturer or distributor shall not coerce or attempt to coerce any motor vehicle dealer to accept delivery of any motor vehicle or vehicles, parts, or accessories ~~thereof~~, or any other commodity or commodities which ~~shall not~~ have not been ordered by ~~such the~~ dealer.

9. ~~No~~ A person licensed under this chapter shall not, either directly or through an agent, salesperson or employee, engage in this state, or represent or advertise that the person is engaged or intends to engage in this state, in the business of buying or selling at retail new or used motor vehicles, other than mobile homes more than eight feet in width or more than thirty-two feet in length as defined in section 321.1, on the first day of the week, commonly known and designated as Sunday.

10. A manufacturer, distributor, or importer of motor vehicles or agent or representative of such manufacturer, distributor, or importer shall not require a motor vehicle dealer to submit to arbitration to resolve a controversy before the controversy arises. The parties may enter into a voluntary agreement to arbitrate a controversy after it arises. Such an agreement shall require that the arbitrator apply Iowa law in resolving the controversy. Either party may appeal a decision of an arbitrator to the district court on the grounds that the arbitrator failed to apply Iowa law.

11. A person who is engaged in the business of selling motor vehicles at retail shall not sell, offer for sale, represent, or advertise that the person intends to sell motor vehicles from a location other than the person's place of business, except as provided in section 322.5.

Sec. 14. Section 805.8, subsection 2, paragraph h, Code Supplement 1995, is amended to read as follows:

h. For operating, passing, turning and standing violations under sections 321.236, subsections 3, 4, 9 and 12, 321.275, subsections 1 through 8, 321.295, 321.297, 321.299, 321.303, 321.304, subsections 1 and 2, 321.305, 321.306, 321.311, 321.312, 321.314, 321.315, 321.316, 321.318, 321.323, 321.340, ~~321.344~~, 321.353, 321.354, 321.363, 321.365, 321.366, 321.368, 321.382, and 321.395, the scheduled fine is fifteen dollars.

Sec. 15. Section 805.8, subsection 2, paragraph l, Code Supplement 1995, is amended to read as follows:

l. For violations of traffic signs and signals, and for failure to obey an officer under sections 321.229, 321.236, subsections 2 and 6, 321.256, 321.257, subsection 2, 321.294, 321.304, subsection 3, 321.322, ~~321.341, 321.342, 321.343~~ and 321.415, the scheduled fine is twenty dollars.

Sec. 16. Section 805.8, subsection 2, Code Supplement 1995, is amended by adding the following new paragraphs:

NEW PARAGRAPH. z. For violations of section 321.460 prohibiting spilling loads on the highway, the scheduled fine is one hundred dollars.

NEW PARAGRAPH. aa. For violations of length, height, width, and other provisions of a permit, except weight provisions, under section 321E.16, the scheduled fine is one hundred dollars.

NEW PARAGRAPH. bb. For violations of importing fuel in the supply tank of a motor vehicle under section 452A.52, the scheduled fine is one hundred dollars.

NEW PARAGRAPH. cc. For violations of sections 321.341, 321.342, 321.343, and 321.344, the scheduled fine is fifty dollars.

Sec. 17. Section 805.8, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. VIOLATIONS OF TITLE LAWS. For violations under sections 321.25, 321.45, 321.46, 321.48, 321.52, 321.67, and 321.104, the scheduled fine is fifty dollars.

Sec. 18. Section 805.8, subsection 2, paragraph u, Code Supplement 1995, is amended to read as follows:

u. For ~~obtaining, possessing, or having in one's control or one's premises~~ unlawful use of a motor vehicle license, or a nonoperator's identification card, or a blank motor vehicle license form in violation of section 321.216, ~~subsection 7 or 8~~, the scheduled fine is ~~fifty~~ seventy-five dollars.

Approved April 15, 1996