

# Senate Amendment 3363

## Amendment Text

PAG LIN

1 1 Amend [House File 707](#), as amended, passed, and  
1 2 reprinted by the House, as follows:  
1 3 #1. Page 1, by inserting before line 1 the  
1 4 following:  
1 5 "Section 1. Section [321.12](#), Code 1997, is amended  
1 6 to read as follows:  
1 7 321.12 OBSOLETE RECORDS DESTROYED.  
1 8 1. The director may destroy any records of the  
1 9 department which have been maintained on file for  
1 10 three years which the director deems obsolete and of  
1 11 no further service in carrying out the powers and  
1 12 duties of the department, except as otherwise provided  
1 13 in this section.  
1 14 2.

~~However, operating~~

~~Operating records relating~~

1 15 to a person who has been issued a commercial driver's  
1 16 license shall be maintained on file in accordance with  
1 17 rules adopted by the department.

1 18 3. The following records may be destroyed

1 19 according to the following requirements:

1 20 a. Records concerning suspensions authorized under  
1 21 section 321.210, subsection 1, paragraph "g", and  
1 22 section 321.210A may be destroyed six months after the  
1 23 suspension is terminated and the requirements of  
1 24 section 321.191 have been satisfied.

1 25 b. Records concerning suspensions and surrender of  
1 26 licenses or registrations required under section  
1 27 321A.31 for failing to maintain proof of financial  
1 28 responsibility, as defined in section 321A.1, may be  
1 29 destroyed six months after the requirements of  
1 30 sections 321.191 and 321A.29 have been satisfied.

1 31 4. The director shall not destroy any operating  
1 32 records pertaining to arrests or convictions for  
1 33 operating while intoxicated, in violation of section  
1 34 321J.2

~~, which are more than twelve years old. The~~

1 35

~~twelve year period shall commence with the date of the~~

1 36

~~arrest or conviction for the offense, whichever first~~

1 37

~~occurs. However, the director shall not destroy~~

1 38

~~operating records which pertain to arrests or~~

1 39

~~convictions for operating while intoxicated after the~~

1 40

~~expiration of twelve years when the motor vehicle~~

1 41

~~being operated was a commercial motor vehicle or if~~

1 42

~~all of the provisions of the court order have not been~~

1 43

~~satisfied.~~

1 44

~~The director shall destroy any~~

~~or operating records~~

1 45 pertaining to revocations for violations of section

1 46 321J.2A

~~which are more than twelve years old. The~~

1 47

~~twelve year period shall commence with the date the~~

1 48

~~revocation of the person's operating privileges~~

1 49

~~becomes effective. This paragraph shall not apply to~~

1 50

~~records of revocations which pertain to violations of~~

2 1

~~section 321J.2A by persons operating a commercial~~

2 2

~~motor vehicle~~

~~, except that one conviction or~~

2 3 revocation under section 321J.2 or 321J.2A shall be

2 4 deleted from the operating records during the lifetime

2 5 of the individual driver if the following conditions

2 6 are satisfied:

2 7 a. The conviction or revocation occurred when the

2 8 individual was under the age of twenty-one.

2 9 b. No other convictions or revocations pursuant to

2 10 chapter 321J were imposed on the individual between

2 11 the time of the first conviction or revocation under

2 12 chapter 321J and the time the individual reached the

2 13 age of twenty-five."

2 14 #2. Page 1, by inserting before line 5 the

2 15 following:

2 16 "Sec. \_\_\_\_ NEW SECTION. 321J.1A PUBLICATION OF

2 17 LAW.

2 18 1. The department of public safety, the governor's  
2 19 traffic safety bureau, the state department of  
2 20 transportation, the governor, and the attorney general  
2 21 shall cooperate in an ongoing public education  
2 22 campaign to inform the citizens of this state of the  
2 23 dangers and the specific legal consequences of driving  
2 24 drunk in this state. The entities shall use their  
2 25 best efforts to utilize all available opportunities  
2 26 for making public service announcements on television  
2 27 and radio broadcasts, and to obtain and utilize  
2 28 federal funds for highway safety and other grants in  
2 29 conducting the public education campaign.

2 30 2. The department shall publish pamphlets  
2 31 containing the criminal and administrative penalties  
2 32 for drunk driving, and related laws, rules,  
2 33 instructions, and explanatory matter. This  
2 34 information may be included in pamphlets containing  
2 35 information related to other motor vehicle laws,  
2 36 published pursuant to section 321.15. Copies of such  
2 37 pamphlets shall be given wide distribution, and a  
2 38 supply shall be made available to each county  
2 39 treasurer."

2 40 #3. Page 1, by striking lines 9 through 19 and  
2 41 inserting the following:  
2 42 "a. A serious misdemeanor for the first offense  
2 43

~~and shall be imprisoned  
, punishable by all of the~~

2 44 following:

2 45 (1) Imprisonment in the county jail or community-  
2 46 based correctional facility for

~~not less than  
forty-~~

2 47 eight hours, to be served consecutively, as ordered by  
2 48 the court, less credit for any time the person was  
2 49 confined in a jail or detention facility following  
2 50 arrest

~~, and assessed~~

~~Pursuant to subsection 2A, this~~

3 1 sentence shall not be deferred or suspended. However,  
3 2 the court, in ordering service of the sentence and in  
3 3 its discretion, may accommodate the defendant's work  
3 4 schedule.

3 5 (2) Assessment of a fine of

~~not less than five~~

3 6

~~hundred dollars nor more than  
one thousand dollars.~~

3 7 As an alternative to a portion or all of the fine, the  
3 8 court may order the person to perform

~~not more than~~

3 9

~~two hundred hours of  
unpaid community service.~~

~~The~~

3 10

~~court may accommodate the sentence to the work~~

3 11

~~schedule of the defendant.~~

3 12 (3) Revocation of the person's motor vehicle  
3 13 license pursuant to section 321J.4, subsection 1,  
3 14 section 321J.9, or section 321J.12, which includes a  
3 15 minimum revocation period of one hundred eighty days,  
3 16 including a minimum period of ineligibility for a  
3 17 temporary restricted license of thirty days, and may  
3 18 involve a revocation period of one year.

3 19 (4) Assignment to substance abuse evaluation and  
3 20 treatment, a course for drinking drivers, and, if  
3 21 available and appropriate, a reality education  
3 22 substance abuse prevention program pursuant to  
3 23 subsection 2A."

3 24 #4. Page 1, by striking line 25, and inserting the  
3 25 following: "fine of not less than

~~seven~~

~~one thousand~~

3 26 five hundred

~~fifty~~

~~dollars nor more than five thousand~~

3 27 dollars."

3 28 #5. Page 1, by striking line 31, and inserting the  
3 29 following: "of not less than

~~seven~~

~~two thousand five~~

3 30 hundred

~~fifty~~

~~dollars nor more than seven thousand~~

3 31 five hundred dollars.

~~The minimum~~

~~"~~

3 32 #6. Page 2, line 23, by striking the word

3 33 "minimum".

3 34 #7. By striking page 2, line 24, through page 3,  
3 35 line 3, and inserting the following: "applicable to  
3 36 the defendant under subsection 2."

3 37 #8. Page 3, by striking line 7 and inserting the  
3 38 following:

3 39 "c. Where the program is available and is  
3 40 appropriate for the convicted person, a person  
3 41 convicted of an offense under subsection 2 shall be  
3 42 ordered to participate in a reality education  
3 43 substance abuse prevention program as provided in  
3 44 section 321J.24.

3 45 d. A minimum term of imprisonment in a county jail  
3 46 or".

3 47 #9. Page 3, by striking lines 22 through 30 and  
3 48 inserting the following:

3 49 "3.

~~No conviction for, deferred judgment for, or~~

3 50

~~plea of guilty to, a violation of this section which~~

4 1

~~occurred more than six years prior to the date of the~~

4 2

~~violation charged shall be considered in determining~~

4 3

~~that the violation charged is a second, third, or~~

4 4

~~subsequent offense. For the purpose of~~

~~In determining~~

4 5 if a violation charged is a second

~~, third,~~

~~or~~

4 6 subsequent offense

~~, deferred~~

~~for purposes of criminal~~

4 7 sentencing or license revocation under this chapter:

4 8 a. Any conviction or revocation deleted from motor

4 9 vehicle operating records pursuant to section 321.12

4 10 shall not be considered as a previous offense.

4 11 b. Deferred judgments entered pursuant to previous

4 12 versions of section 907.3 for violations of this

4 13 section

~~and convictions~~

~~shall be counted as previous~~

4 14 offenses.

4 15 c. Convictions or the equivalent of deferred

4 16 judgments for".

4 17 #10. Page 4, line 18, by striking the word

4 18 "other".

4 19 #11. Page 4, line 20, by striking the words "or

4 20 receiving a deferred judgment for" and inserting the

4 21 following: "

~~or receiving a deferred judgment for~~

~~".~~

4 22 #12. Page 7, by striking lines 31 and 32 and

4 23 inserting the following: "conviction or revocation

4 24 under this chapter

~~within the previous six years and~~

4 25

~~the~~

~~The defendant shall not be".~~

4 26 #13. Page 8, by striking line 13, and inserting

4 27 the following: "under this chapter

~~within the~~

4 28

~~previous six years~~

~~The".~~

4 29 #14. Page 10, lines 21 and 22, by striking the

4 30 words "or as a condition of a deferred judgment for"

4 31 and inserting the following: "

~~or as a condition of a~~

4 32

~~deferred judgment for~~

~~"~~

4 33 #15. Page 12, by striking lines 17 through 19 and  
4 34 inserting the following:

4 35 "The clerk of court shall send notice of a  
4 36 conviction of an offense for which the vehicle was  
4 37 impounded to the impounding authority upon conviction  
4 38 of the defendant for such offense.

4 39 Impoundment of the vehicle under this section may  
4 40 occur in addition to any criminal penalty imposed  
4 41 under chapter 321 or this chapter for the underlying  
4 42 criminal offense."

4 43 #16. Page 18, line 14, by striking the word "this"  
4 44 and inserting the following: "

~~this~~

~~"~~

4 45 #17. Page 21, line 2, by striking the words  
4 46 "twenty-four hours" and inserting the following: "a  
4 47 reasonable time".

4 48 #18. Page 21, by striking line 17, and inserting  
4 49 the following: "previous revocation

~~within the~~

4 50

~~previous six years~~

~~under"~~

5 1 #19. Page 21, by striking lines 19 through 21 and  
5 2 inserting the following:

5 3 "b.

~~Five hundred forty days~~

~~Two years~~ if the

5 4 person has

~~one or more~~

~~had a~~ previous

~~revocations~~

5 5

~~within the previous six years~~

~~revocation~~ under this

5 6 chapter."

5 7 #20. Page 22, by striking line 8 and inserting the  
5 8 following: "revocation

~~within the previous six years~~

5 9 under this".

5 10 #21. Page 22, by striking lines 10 through 12 and  
5 11 inserting the following:

5 12 "b. One year if the person has had

~~one or more~~

~~a~~

5 13 previous

~~revocations within the previous six years~~

5 14 revocation under this chapter."  
5 15 #22. Page 22, by striking lines 15 through 29 and  
5 16 inserting the following:  
5 17 "5. Upon certification, subject to penalty of  
5 18 perjury, by the peace officer that there existed  
5 19 reasonable grounds to believe that the person had been  
5 20 operating a motor vehicle in violation of section  
5 21 321J.2A, that there existed one or more of the  
5 22 necessary conditions for chemical testing described in  
5 23 section 321J.6, subsection 1, and that the person  
5 24 submitted to chemical testing and the test results  
5 25 indicated an alcohol concentration as defined in  
5 26 section 321J.1 of .02 or more but less than .10, the  
5 27 department shall revoke the person's motor vehicle  
5 28 license or operating privilege for a period of sixty  
5 29 days if the person has had no

~~revocations within the~~

5 30

~~previous six years~~

- previous revocation under

~~section~~

5 31

~~321J.2A~~

- this chapter, and for a period of ninety days

5 32 if the person has had

~~one or more~~

- a previous

5 33

~~revocations within the previous six years~~

- revocation

5 34 under

~~section 321J.2A~~

- this chapter."

5 35 #23. Page 23, by inserting before line 18 the

5 36 following:

5 37 "The court or department may request that the  
5 38 community college conducting the course for drinking  
5 39 drivers which the person is ordered to attend  
5 40 immediately report to the court or department that the  
5 41 person has successfully completed the course for  
5 42 drinking drivers. The court or department may request  
5 43 that the treatment program which the person attends  
5 44 periodically report on the defendant's attendance and  
5 45 participation in the program, as well as the status of  
5 46 treatment or rehabilitation."

5 47 #24. Page 24, lines 4 and 5, by striking the words

5 48 "within the previous

~~six~~

- twelve years" and inserting

5 49 the following: "

~~within the previous six years~~

5 50 #25. Page 26, by inserting before line 35 the

6 1 following:

6 2 "Sec. \_\_\_\_ Section 321J.24, subsection 1,

6 3 paragraph b, Code 1997, is amended to read as follows:

6 4 b. "Participant" means a person

~~who is sixteen~~

6 5

~~years of age or older but under the age of twenty one,~~

6 6

~~and~~

~~who is ordered by the court to participate in the~~  
6 7 reality education substance abuse prevention program.

6 8 Sec. \_\_\_\_\_. Section [321J.24](#), subsection 2, Code  
6 9 1997, is amended to read as follows:

6 10 2. A reality education substance abuse prevention  
6 11 program is established in those judicial districts  
6 12 where the chief judge of the judicial district  
6 13 authorizes participation in the program. Upon a  
6 14 conviction or adjudication for a violation of section  
6 15 321J.2,

~~or the entry of a deferred judgment concerning~~

6 16

~~a violation of section 321J.2,~~

~~the court or juvenile~~

6 17 court

~~, with the consent of the defendant or delinquent~~

6 18

~~child,~~

~~may order~~

~~a defendant who is sixteen years of~~

6 19

~~age or older but under the age of twenty one or~~

6 20

~~delinquent child who is sixteen years of age or older~~

6 21

~~to participate~~

~~participation~~ in the reality education  
6 22 substance abuse prevention program as a term and  
6 23 condition of probation or disposition in addition to  
6 24 any other term or condition of probation or  
6 25 disposition required or authorized by law. The court  
6 26 or juvenile court shall require the defendant or  
6 27 delinquent child to abstain from consuming any  
6 28 controlled substance, alcoholic liquor, wine, or beer  
6 29

~~before reaching age twenty one~~

~~while participating in~~

6 30 the program.

6 31 Sec. \_\_\_\_\_. Section [321J.25](#), subsection 4, Code  
6 32 1997, is amended to read as follows:

6 33 4. Upon the revocation of the motor vehicle

6 34 license or operating privileges of a person who is  
6 35 fourteen years of age or older for a violation of  
6 36 section 321J.2A, if the person has had no previous  
6 37 revocations under either section 321J.2 or section  
6 38 321J.2A, a person may participate in the substance  
6 39 abuse awareness program. The state department of  
6 40 transportation shall notify a potential program  
6 41 participant of the possibility and potential benefits  
6 42 of attending a program and shall notify a potential  
6 43 program participant of the availability of programs  
6 44 which exist in the area in which the person resides.  
6 45 The state department of transportation shall consult  
6 46 with the Iowa department of public health to determine  
6 47 what programs are available in various areas of the  
6 48 state.

~~The period of revocation for a person whose~~

6 49

~~motor vehicle license or operating privilege has been~~

6 50

~~revoked under section 321J.2A, shall be reduced by~~

7 1

~~fifty percent upon receipt by the state department of~~

7 2

~~transportation of a certification by a program~~

7 3

~~provider that the person has completed a program.~~

7 4 #26. Page 27, by inserting before line 30 the  
7 5 following:

7 6 "d. Where the program is available and appropriate  
7 7 for the defendant, the court shall also order the  
7 8 defendant to participate in a reality education  
7 9 substance abuse prevention program as provided in  
7 10 section 321J.24."

7 11 #27. Page 28, by striking lines 18 through 33 and  
7 12 inserting the following: "operation of a motor  
7 13 vehicle while intoxicated."

7 14 #28. Page 29, by inserting before line 9 the  
7 15 following:

7 16 "Sec. \_\_\_\_\_. Section 811.1, subsections 1 and 2,  
7 17 Code 1997, are amended to read as follows:

7 18 1. A defendant awaiting judgment of conviction and  
7 19 sentencing following either a plea or verdict of  
7 20 guilty of a class "A" felony, murder, any class "B"  
7 21 felony included in section 707.6A, felonious assault,  
7 22 felonious child endangerment, sexual abuse in the  
7 23 second degree, sexual abuse in the third degree,  
7 24 kidnapping, robbery in the first degree, arson in the  
7 25 first degree, or burglary in the first degree, or any  
7 26 felony included in section 124.401, subsection 1,  
7 27 paragraph "a".

7 28 2. A defendant appealing a conviction of a class  
7 29 "A" felony, murder, any class "B" felony included in  
7 30 section 707.6A, felonious assault, felonious child  
7 31 endangerment, sexual abuse in the second degree,  
7 32 sexual abuse in the third degree, kidnapping, robbery

7 33 in the first degree, arson in the first degree, or  
7 34 burglary in the first degree, or any felony included  
7 35 in section 124.401, subsection 1, paragraph "a".  
7 36 #29. Page 29, lines 11 and 12, by striking the  
7 37 words "and, within the previous

~~— six~~

~~— twelve years," and~~

7 38 inserting the following: "and

~~— , within the previous~~

7 39

~~— six years,~~

~~—"~~

7 40 #30. Page 29, by striking lines 18 through 32 and  
7 41 inserting the following: "intoxicated."

7 42 #31. By striking page 30, line 23, through page  
7 43 31, line 3, and inserting the following: "involving  
7 44 operation of a motor vehicle while intoxicated."

7 45 #32. By striking page 31, line 33, through page  
7 46 32, line 13, and inserting the following: "of a motor  
7 47 vehicle while intoxicated."

7 48 #33. Title page, by striking line 7 and inserting  
7 49 the following: "certain bail restrictions and  
7 50 penalties."

8 1 #34. By renumbering as necessary.

8 2

8 3

8 4

8 5 COMMITTEE ON JUDICIARY

8 6 ANDY McKEAN, Chairperson

8 7 HF 707.502 77

8 8 jls/jw/28