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**SF 536** – Operating While Intoxicated, Repeat Penalty Enhancements (LSB2711SV)  
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Fiscal Note Version – New

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**Description**

**Senate File 536** amends existing Operating While Intoxicated (OWI) laws. The Bill requires the Department of Transportation (DOT) to keep records required under the section indefinitely, and amends Iowa Code section [321J.2\(8\)](#) to include any prior conviction under Iowa Code sections [321.277](#) and [123.46\(2\)](#) as a prior OWI conviction after an OWI arrest.

The Bill adds a new subsection to Iowa Code section [321.101](#) that requires the DOT to suspend the registration of vehicles owned by a person who is required to install an ignition interlock device (IID) pursuant to Iowa Code section [321J.20](#) until the DOT receives proof that the IID has been successfully installed. Suspension of registration may be avoided if a family member signs an affidavit stating the family member also operated the vehicle prior to the owner's OWI violation. However, if that family member knowingly allows the vehicle owner to drive the vehicle without an IID, the family member would be guilty of a simple misdemeanor.

In addition, the Bill enhances the penalties for operating a vehicle with a license revoked due to an OWI and operating a vehicle with a temporary restricted license without an IID installed. The Bill requires an IID to have a camera that can take still pictures during its operation. Iowa Code section [811.2\(1\)](#) is also amended to require a person who is charged with a third or subsequent violation of Iowa Code section [321J.2](#) and posts bail to install an IID within 30 days and provide proof of the installation.

**Background**

Iowa Code chapter [321J](#) contains current OWI law. Currently, Iowa Code section [321.12](#) requires the DOT to keep operating records on file for at least 12 years after an arrest or conviction for an OWI, after which the arrest or conviction is required to be deleted from the record. A temporary restricted license (TRL) may be issued pending application to the DOT and the installation of an approved IID on all vehicles that person owns or operates. A TRL issued as a result of an OWI violation allows the driver to operate a vehicle in any manner allowed by a noncommercial driver's license, unless otherwise prohibited.

The time periods related to revocation of a driver's license for an OWI conviction are as follows:

- 90 days for a deferred judgement.
- 180 days for a first offense.
- One year for a second offense.
- Six years for a third offense.
- One year in addition to the period of a first, second, or third offense if the OWI offense caused personal injury.
- Six years in addition to the period of a first, second, or third offense if the OWI offense caused a death. The person is not eligible for a TRL for two years in this case.

The current penalty for driving after a license is revoked due to an OWI without a TRL is a serious misdemeanor and a fine of \$1,000. If a driver is convicted of a second or subsequent offense of driving with a revoked license, the vehicle must be seized and forfeited to the State. If an owner of a vehicle knowingly lends the vehicle to a person whose license has been revoked due to an OWI, the owner is guilty of a simple misdemeanor and is jointly liable for any damages the driver may cause.

**Assumptions**

Senate File 536 will increase convictions for simple, serious, and aggravated misdemeanors as well as Class D felonies; however, the extent of the increase is unknown.

**Correctional Impact**

Senate File 536 establishes a new simple misdemeanor, a serious misdemeanor, four aggravated misdemeanors, and a Class D felony. It is unknown how many convictions will result from this Bill; as such, a correctional impact cannot be estimated. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 22, 2021, for information related to the correctional system. **Table 1** shows the number of persons newly admitted to probation, house arrest, parole, or prison for an OWI offense for FY 2020.

**Table 1**

<b>Department of Corrections — OWI Admissions for FY 2020</b>		
<b><u>Correctional Status</u></b>	<b><u>Number of Admissions</u></b>	<b><u>Average Length of Stay in Days</u></b>
Probation	3,499	639
Residential	727	88
Parole	412	214
Prison	274	296
OWI Continuum	24	131
<b>Totals</b>	<b>4,936</b>	<b>1,368</b>

**Minority Impact**

Senate File 536 establishes several new misdemeanors and a Class D felony, and it is unknown how many convictions will result from these new crimes. The Bill also enhances the penalties for operating a vehicle with a TRL without an IID installed. Due to the lack of existing data, a minority impact cannot be estimated. **Table 2** show the number of convictions of Iowa Code chapter 321J for FY 2020 by ethnicity. Of the 9,751 total OWI convictions in FY 2020, 79.7% were Caucasian and 14.5% were African American. In FY 2020, Caucasians and African Americans made up 89.9% and 4.1% of the Iowa adult population, respectively. The conviction rate for African Americans exceeds the population proportion of the State, which would lead to a racial impact if trends remain constant. Due to low numbers of other minority populations, the impact on those populations cannot be assessed. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 27, 2021, for information related to minorities in the criminal justice system.

Table 2

<b><u>OWI Convictions by Ethnicity — FY 2020</u></b>			
<b><u>Caucasian</u></b>	<b><u>African American</u></b>	<b><u>Other</u></b>	<b><u>Total</u></b>
7,767	1,126	858	9,751

**Fiscal Impact**

The fiscal impact of Senate File 536 cannot be estimated due to the lack of existing conviction data. **Table 3** contains cost estimates for the average State cost per offense class type for one conviction. The cost estimate includes operating costs incurred by the Judicial Branch, the State Public Defender, and the Department of Corrections for one conviction. The cost would be incurred across multiple fiscal years for prison and parole supervision.

**Table 3 — Average State Cost Per Offense Class Type**

<b><u>Offense Class</u></b>	<b>Total Cost</b>	
	<b><u>Minimum</u></b>	<b><u>Maximum</u></b>
Serious Misdemeanor	\$ 410	\$ 7,500
Aggravated Misdemeanor	3,700	7,800
Class D Felony	7,700	13,500

In addition, the DOT has stated that it would incur one-time programming costs of approximately \$47,000 and would be able to handle any increase in job duties with existing staff.

**Sources**

Legislative Services Agency  
Criminal Justice and Juvenile Planning Division, Department of Human Rights  
Department of Corrections  
Department of Transportation

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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