



CHESTER J. CULVER  
GOVERNOR

**OFFICE OF THE GOVERNOR**

PATTY JUDGE  
LT. GOVERNOR

March 25, 2009

The Honorable Michael Mauro  
Secretary of State  
State Capitol Building  
L O C A L

Dear Mr. Secretary:

I hereby transmit:

**Senate File 118**, an Act relating to the judicial branch including contested and uncontested parking violations, city and county penalties, filing civil citations of municipal infractions with the clerk, records kept by the clerk, and service of original notice in a small claims action.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver".

Chester J. Culver  
Governor

CJC:bdj

cc: Secretary of the Senate  
Chief Clerk of the House





SENATE FILE 118

AN ACT

RELATING TO THE JUDICIAL BRANCH INCLUDING CONTESTED AND UNCONTESTED PARKING VIOLATIONS, CITY AND COUNTY PENALTIES, FILING CIVIL CITATIONS OF MUNICIPAL INFRACTIONS WITH THE CLERK, RECORDS KEPT BY THE CLERK, AND SERVICE OF ORIGINAL NOTICE IN A SMALL CLAIMS ACTION.

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

Section 1. Section 321.236, subsection 1, unnumbered paragraph 2, Code 2009, is amended to read as follows:

Parking meter, snow route, and overtime parking violations which are ~~denied~~ contested shall be charged and proceed before a court the same as other traffic violations. Filing fees and court costs shall be assessed as provided in section 602.8106, subsection 1 and section 805.6, subsection 1, paragraph "a" for parking violation cases. ~~Parking-violations-which-are admitted-~~

Sec. 2. Section 321.236, subsection 1, paragraphs a and b, Code 2009, are amended to read as follows:

a. May Parking violations which are uncontested shall be charged and collected upon a simple notice of a fine payable to the city clerk~~7-if-authorized-by-ordinance~~. The fine for each violation charged under a simple notice of a fine shall be established by ordinance. The fine may be increased by five dollars if the parking violation is not paid within thirty days of the date upon which the violation occurred~~7-if authorized-by-ordinance~~. Violations of section 321L.4, subsection 2, ~~may~~ shall be charged and collected upon a simple notice of a one hundred dollar fine payable to the city clerk~~7-if-authorized-by-ordinance~~. ~~No-costs~~ Costs or other charges shall not be assessed. All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county, except as provided by an agreement between a city and a county treasurer for the collection of fines pursuant to section 331.553, subsection 8.

~~b.--Notwithstanding-any-such-ordinance,7-may-be-prosecuted under-the-provisions-of-sections-805.7-to-805.13-or-as-any other-traffic-violation-~~

Sec. 3. Section 331.302, subsection 2, Code 2009, is amended to read as follows:

2. A For a violation of an ordinance a county shall not provide a penalty in excess of a-five-hundred-dollar the maximum fine or-in-excess-of-thirty-days and term of imprisonment for the-violation-of-an-ordinance a simple misdemeanor under section 903.1, subsection 1, paragraph "a". The criminal penalty surcharge required by section 911.1 shall be added to a county fine and is not a part of the county's penalty.

Sec. 4. Section 331.302, subsection 4A, paragraph a, subparagraph (2), Code 2009, 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 the maximum fine and term of imprisonment and-a-five-hundred-dollar-fine for a simple misdemeanor under section 903.1, subsection 1, paragraph "a".

Sec. 5. Section 364.3, subsection 2, Code 2009, is amended to read as follows:



2. ~~A For a violation of an ordinance a city shall not provide a penalty in excess of a-five-hundred-dollar the maximum fine or-in-excess-of-thirty-days<sup>+</sup> and term of imprisonment for the-violation-of-an-ordinance a simple misdemeanor under section 903.1, subsection 1, paragraph "a".~~ 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 911.1 shall be added to a city fine and is not a part of the city's penalty.

Sec. 6. Section 364.22, subsection 4, unnumbered paragraph 1, Code 2009, is amended to read as follows:

An officer authorized by a city to enforce a city code or regulation may issue a civil citation to a person who commits a municipal infraction. ~~The~~ A copy of the citation may be served by personal service as provided in rule of civil procedure 1.305, by certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in rule of civil procedure 1.310 and subject to the conditions of rule of civil procedure 1.311. A copy of the citation shall be retained by the issuing officer, and one-copy the original citation shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

Sec. 7. Section 380.10, subsection 2, Code 2009, 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<sup>+</sup> the maximum fine and term of imprisonment and-a-five-hundred-dollar-fine~~ for a simple misdemeanor under section 903.1, subsection 1, paragraph "a".

Sec. 8. Section 523I.602, subsection 4, Code 2009, is amended to read as follows:

4. RECEIPT -- ~~CEMETERY~~ RECORD. Every such trustee shall execute and deliver to the donor a receipt showing the amount of money or other property received, and the use to be made of the net proceeds from the same, duly attested by the clerk of

~~the court granting letters of trusteeship, and a copy thereof, signed by the trustee and so attested, shall be filed with and recorded by the clerk in a book to be known as the cemetery record, in which shall be recorded all reports and other papers, including orders made by the court relative to cemetery matters~~ and the trustee shall keep a signed and attested copy of the receipt.

Sec. 9. Section 602.8104, subsection 2, paragraph h, Code 2009, is amended by striking the paragraph.

Sec. 10. Section 602.8104, subsection 2, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. A record book of certificates of deposit, not in the clerk's name, which are being held by the clerk on behalf of a conservatorship, trust, or an estate pursuant to a court order as provided in section 636.37.

Sec. 11. Section 602.8106, subsection 1, paragraph c, Code 2009, is amended to read as follows:

c. For filing and docketing a complaint or information or uniform citation and complaint for parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, eight dollars, effective January 1, 2004. The court costs in cases of parking meter and overtime parking violations which are ~~denied~~ contested, and charged and collected pursuant to section 321.236, subsection 1, or pursuant to a uniform citation and complaint, are eight dollars per information or complaint or per uniform citation and complaint effective January 1, 1991.

Sec. 12. Section 631.4, subsection 1, paragraph a, Code 2009, is amended to read as follows:

a. If the defendant is a resident of this state, or if the defendant is a nonresident of this state and is subject to the jurisdiction of the court under rule of civil procedure 1.306, the plaintiff may elect service under this paragraph, and upon receipt of the prescribed costs the clerk shall mail to the defendant by certified mail, restricted delivery, return receipt to the clerk requested, a copy of the original notice together with a conforming copy of an answer form. However, if the defendant is a corporation, partnership, or association, the clerk shall mail to the defendant by certified mail, return receipt to the clerk requested, a copy of the original notice with a conforming copy of an answer



form. The defendant is required to appear within twenty days following the date service is made.

Sec. 13. Section 636.37, Code 2009, is amended to read as follows:

636.37 DUTY OF CLERK.

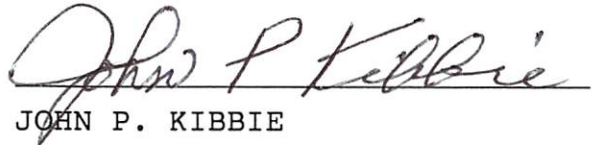
1. The clerk of the district court with whom any deposit of funds, moneys, or securities shall be made, as provided by any law or an order of court, shall enter in a book, to be provided and kept for that purpose, the amount of such deposit, the character thereof, the date of its deposit, from whom received, from what source derived, to whom due or to become due, if known.

2. A separate book shall be maintained for all certificates of deposit not in the name of the clerk of the district court that are being held by the clerk on behalf of a conservatorship, trust, or estate. The book shall list the relevant details of the transaction, including but not limited to the name of the conservator, trustee, or executor, and cross references to the court orders opening and closing the conservatorship, trust, or estate.

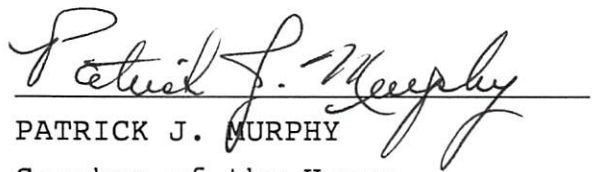
Sec. 14. Section 805.8A, subsection 1, paragraph a, Code 2009, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars, except if the local authority has established the fine by ordinance ~~pursuant to section 321.2367-subsection 1.~~ The scheduled fine for a parking violation pursuant to section 321.236 increases by five dollars, as if authorized by ordinance ~~pursuant to section 321.2367-subsection 1,~~ and if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond required under section 805.6, the scheduled fine shall be five dollars, or if the amount of the fine is greater than five dollars, the unsecured appearance bond shall be the amount of the fine established by the local authority ~~pursuant to section 321.2367-subsection 1.~~ However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint ~~as-permitted~~ required by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense

charged in that manner. For a parking violation under section 321.362 or 461A.38, the scheduled fine is ten dollars.



JOHN P. KIBBIE  
President of the Senate



PATRICK J. MURPHY  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 118, Eighty-third General Assembly.



MICHAEL E. MARSHALL  
Secretary of the Senate

Approved March 25<sup>th</sup>, 2009



CHESTER J. CULVER  
Governor