

House File 2338 - Enrolled

House File 2338

AN ACT

RELATING TO TEMPORARY RESTRICTED LICENSES FOR  
OPERATING-WHILE-INTOXICATED OFFENDERS, PROVIDING PENALTIES,  
AND INCLUDING APPLICABILITY PROVISIONS.

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

Section 1. Section 321.560, subsection 1, paragraph b, Code 2018, is amended to read as follows:

b. A temporary restricted license may be issued pursuant to section 321J.20, ~~subsection 2,~~ to a person declared to be a habitual offender due to a combination of the offenses listed under [section 321.555, subsection 1](#), paragraphs "b" and "c".

Sec. 2. Section 321J.2, subsection 3, paragraph c, unnumbered paragraph 1, Code 2018, is amended to read as follows:

Assessment of a fine of one thousand two hundred fifty dollars. However, in the discretion of the court, if no personal or property injury has resulted from the defendant's actions, the court may waive up to six hundred twenty-five dollars of the fine when the defendant presents to the court ~~at the end of the minimum period of ineligibility~~ a temporary restricted license issued pursuant to [section 321J.20](#).

Sec. 3. Section 321J.2, subsection 3, paragraph d, Code 2018, is amended to read as follows:

d. Revocation of the person's driver's license for a minimum period of one hundred eighty days up to a maximum revocation period of one year, pursuant to section 321J.4, subsection

1, [section 321J.9](#), or section 321J.12, ~~subsection 2.~~ If a revocation occurs due to test refusal under [section 321J.9](#), the defendant shall be ineligible for a temporary restricted license for a minimum period of ninety days.

~~(1) A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be required to install an ignition interlock device.~~

~~(2) A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.~~

Sec. 4. Section 321J.4, subsections 1, 2, 3, 4, and 5, Code 2018, are amended to read as follows:

1. If a defendant is convicted of a violation of section 321J.2 and the defendant's driver's 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 driver's license or nonresident operating privilege for one hundred eighty days if the defendant submitted to chemical testing and has had no previous conviction or revocation under [this chapter](#) and shall revoke the defendant's driver's license or nonresident

operating privilege for one year if the defendant refused to submit to chemical testing and has had no previous conviction or revocation under [this chapter](#). ~~The defendant shall not be eligible for any temporary restricted license for at least ninety days if a test was refused under [section 321J.9](#).~~

~~*a.* A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be required to install an ignition interlock device.~~

~~*b.* A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.~~

~~*c.* 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 revocation.~~

2. If a defendant is convicted of a violation of section 321J.2, and the defendant's driver's license or nonresident operating privilege has not already been revoked under section 321J.9 or [321J.12](#) for the occurrence from which the arrest arose, the department shall revoke the defendant's driver's license or nonresident operating privilege for one year if the

defendant submitted to chemical testing and has had a previous conviction or revocation under [this chapter](#) and shall revoke the defendant's driver's license or nonresident operating privilege for two years if the defendant refused to submit to chemical testing and has had a previous revocation under this chapter. ~~The defendant shall not be eligible for any temporary restricted license for forty-five days after the effective date of revocation if the defendant submitted to chemical testing and shall not be eligible for any temporary restricted license for ninety days after the effective date of revocation if the defendant refused chemical testing. The temporary restricted license shall be issued in accordance with section 321J.20, subsection 2.~~ The department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license ~~at the end of the minimum period of ineligibility.~~ A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

3. If the court defers judgment pursuant to [section 907.3](#) for a violation of [section 321J.2](#), and if the defendant's driver's 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 driver's 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 ninety days if a test was refused.~~

~~a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred.~~ The department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license. ~~There shall be no such period of~~

~~ineligibility if no such accident occurred, and the defendant shall not be required to install an ignition interlock device.~~

~~b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.~~

~~c. 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.~~

4. Upon a plea or verdict of guilty of a third or subsequent violation of [section 321J.2](#), the department shall revoke the defendant's driver's license or nonresident operating privilege for a period of six years. ~~The defendant shall not be eligible for a temporary restricted license for one year after the effective date of the revocation.~~ The department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license ~~at the end of the minimum period of ineligibility.~~ A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

5. Upon a plea or verdict of guilty of a violation of [section 321J.2](#) which involved a personal injury, the court shall determine in open court, from consideration of the information in the file and any other evidence the parties may submit, whether a serious injury was sustained by any person other than the defendant and, if so, whether the defendant's conduct in violation of [section 321J.2](#) caused the serious

injury. If the court so determines, the court shall order the department to revoke the defendant's driver's license or nonresident operating privilege for a period of one year in addition to any other period of suspension or revocation. ~~The defendant shall not be eligible for any temporary restricted license until the minimum period of ineligibility has expired under [this section](#) or [section 321J.9](#), [321J.12](#), or [321J.20](#).~~ The defendant shall surrender to the court any Iowa license or permit and the court shall forward it to the department with a copy of the order for revocation.

Sec. 5. Section 321J.9, subsections 2 and 3, Code 2018, are amended to read as follows:

2. ~~a.~~ A person whose driver's license or nonresident operating privileges are revoked under [subsection 1](#) shall not be eligible for a temporary restricted license for at least ninety days after the effective date of the revocation. A temporary restricted license issued to a person whose driver's license or nonresident driving privilege has been revoked under [subsection 1](#), paragraph "b", shall be issued in accordance with [section 321J.20](#), ~~subsection 2~~.

~~b.~~ The department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license ~~at the end of the minimum period of ineligibility~~. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

3. If the person is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for the same period a license or permit would be revoked, ~~and deny issuance of a temporary restricted license for the same period of ineligibility for receipt of a temporary restricted license,~~ subject to review as provided in [this chapter](#).

Sec. 6. Section 321J.12, subsection 2, Code 2018, is amended to read as follows:

2. ~~a.~~ A person whose driver's license or nonresident operating privileges have been revoked under [subsection 1](#),

~~paragraph "a", whose alcohol concentration is .08 or more but not more than .10 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 an accident resulting in personal injury or property damage occurred. The department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be required to install an ignition interlock device.~~

~~b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the department shall require the defendant to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.~~

~~c. 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.~~

~~d. 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 forty-five days after the effective date of the revocation, and the department shall require the person to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. The temporary restricted license shall be issued in accordance with [section 321J.20, subsection 2](#). A temporary restricted license~~

shall not be granted by the department until the defendant installs the ignition interlock device.

Sec. 7. Section 321J.13, subsection 1, Code 2018, is amended to read as follows:

1. Notice of revocation of a person's noncommercial driver's license or operating privilege served pursuant to section 321J.9 or [321J.12](#) shall include a form accompanied by a preaddressed envelope on which the person served may indicate by a checkmark if the person only wishes to request a temporary restricted license ~~after the mandatory ineligibility period for issuance of a temporary restricted license has ended~~, or if the person wishes a hearing to contest the revocation. The form shall clearly state on its face that the form must be completed and returned within ten days of receipt or the person's right to a hearing to contest the revocation is foreclosed. The form shall also be accompanied by a statement of the operation of and the person's rights under [this chapter](#).

Sec. 8. Section 321J.20, subsections 1, 2, and 4, Code 2018, are amended to read as follows:

1. ~~a.~~ The department may, on application, issue a temporary restricted license to a person whose noncommercial driver's license is 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 or on violations listed in section 321.560, subsection 1, paragraph "b", allowing the person to ~~drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by the person's full-time or part-time employment, continuing health care or the continuing health care of another who is dependent upon the person, continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion, substance abuse treatment, court-ordered community service responsibilities, appointments with the person's parole or probation officer, and participation in a program established pursuant to [chapter 901D](#)~~, if the person's driver's license has



~~not been revoked previously under [section 321J.4](#), [321J.9](#), or [321J.12](#) and if any of the following apply:~~

~~(1) The person's noncommercial driver's license is revoked under [section 321J.4](#) and the minimum period of ineligibility for issuance of a temporary restricted license has expired. [This subsection](#) shall not apply to a revocation ordered under [section 321J.4](#) resulting from a plea or verdict of guilty of a violation of [section 321J.2](#) that involved a death.~~

~~(2) The person's noncommercial driver's license is revoked under [section 321J.9](#) and the person has entered a plea of guilty on a charge of a violation of [section 321J.2](#) which arose from the same set of circumstances which resulted in the person's driver's license revocation under [section 321J.9](#) and the guilty plea is not withdrawn at the time of or after application for the temporary restricted license, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.~~

~~(3) The person's noncommercial driver's license is revoked under [section 321J.12](#), and the minimum period of ineligibility for issuance of a temporary restricted license has expired operate a motor vehicle in any manner allowed for a person issued a valid class C driver's license, unless otherwise prohibited by this chapter.~~

~~*b.* A temporary restricted license may be issued under this subsection if the person's noncommercial driver's license is revoked for two years under [section 321J.4](#), [subsection 2](#), or [section 321J.9](#), [subsection 1](#), paragraph "b", and the first three hundred sixty-five days of the revocation have expired.~~

~~*c.* This subsection does not apply to a person whose license was revoked under [section 321J.2A](#) or [section 321J.4](#), [subsection 4](#) or [6](#), to a person whose license was revoked under [section 321J.4](#), [subsection 6](#), for the period during which the person is ineligible for a temporary restricted license, or to a person whose license is suspended or revoked for another reason.~~

~~*d.* Following the applicable minimum period of ineligibility, a temporary restricted license under [this subsection](#) shall not be issued until the applicant installs an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the~~

applicant in accordance with ~~section 321J.2, 321J.4, 321J.9, or 321J.12.~~ Installation of an ignition interlock device under ~~this subsection~~ shall be required for the period of time for which the temporary restricted license is issued and for such additional period of time following reinstatement as is required under ~~section 321J.17, subsection 3.~~

2. ~~a.~~ Notwithstanding ~~section 321.560,~~ the department may, on application, and upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under ~~section 321.560, 321J.4, 321J.9, or 321J.12,~~ issue a temporary restricted license to a person whose noncommercial driver's 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~~ or on violations listed in section 321.560, subsection 1, paragraph "b", and who is not eligible for a temporary restricted license under ~~subsection 1.~~ However, the department may not issue a temporary restricted license under ~~this subsection~~ for a violation of ~~section 321J.2A~~ or to a person under the age of twenty-one whose license is revoked under ~~section 321J.4, 321J.9, or 321J.12.~~ A temporary restricted license issued under ~~this subsection~~ may allow the person to drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by the person's full-time or part-time employment; continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion; substance abuse treatment; or participation in a program established pursuant to ~~chapter 901D.~~

~~b.~~ A temporary restricted license issued under this ~~subsection~~ section shall not be issued until the applicant installs an approved ignition interlock device on all motor vehicles owned or operated by the applicant. Installation of an ignition interlock device under this ~~subsection~~ section shall be required for the period of time for which the temporary restricted license is issued, and for such additional

period of time following reinstatement as is required under section 321J.17, subsection 3. However, a person whose driver's license or nonresident operating privilege has been revoked under [section 321J.21](#) may apply to the department for a temporary restricted license without the requirement of an ignition interlock device if at least twelve years have elapsed since the end of the underlying revocation period for a violation of [section 321J.2](#).

~~4. A person holding a temporary restricted license issued by the department under [this section](#) shall not operate a motor vehicle for pleasure.~~

Sec. 9. APPLICABILITY. This Act applies to all persons who apply for or are issued a temporary restricted license under chapter 321J on or after July 1, 2018. The department shall allow a person issued a temporary restricted license prior to July 1, 2018, that is subject to the restrictions provided in section 321J.20, subsection 1, paragraph "a", and section 321J.20, subsection 2, paragraph "a", Code 2018, to apply for and be issued a temporary restricted license subject to the restrictions provided in this Act.

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LINDA UPMEYER  
Speaker of the House

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CHARLES SCHNEIDER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2338, Eighty-seventh General Assembly.

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CARMINE BOAL  
Chief Clerk of the House

Approved \_\_\_\_\_, 2018

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KIM REYNOLDS  
Governor