

Sen. Judiciary 5/18  
House File 343  
Judiciary—  
Kinley, Chairman  
Glenn  
McCartney \_\_\_\_\_ 1973

HOUSE FILE 343

Judiciary & Law Enforcement *Base 3/21* BY DOYLE

House File 343  
Knoke, Chairman  
Anderson  
Rapp

*Sen. Judiciary Base  
per 2865 4/24*

Passed House, Date 5-15-73 (1367) Passed Senate, Date 5-3-74 (1963)  
Vote: Ayes 73 Nays 13 Vote: Ayes 43 Nays 0  
Approved 5-27-74

*Passed House or amended by Senate  
5-3-74 (2432)  
71-0*

## A BILL FOR

- 1 An Act relating to the implied consent test for alcohol;
- 2 making certain acts illegal and providing a penalty for
- 3 their commission.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5
- 6
- 7

### SENATE AMENDMENT TO HOUSE FILE 343

- 1 Amend House File 343, as passed by the House, as
- 2 follows:
- 3 1. Page 4, line 1, by inserting before the word "in"
- 4 the words "for misdemeanors".
- 5 2. Page 4, lines 1 and 2 by striking the words and
- 6 figure "two hundred eighteen (321.218)" and insert-
- 7 ing in lieu thereof the words and figure "four
- 8 hundred eighty-two (321.482)".

Received from the Senate  
May 3, 1974

*House concurred 5/3*

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S-2865

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- 8 eighty-two (321.482)".

S-2865 Filed - *adopted 5/3*  
April 24, 1974

By COMMITTEE ON JUDICIARY

1 Section 1. Section three hundred twenty-one B point three  
2 (321B.3), Code 1973, is amended to read as follows:

3 321B.3 IMPLIED CONSENT TO TEST. Any person who operates  
4 a motor vehicle in this state upon a public highway, under  
5 such circumstances as to give reasonable grounds to believe  
6 the person to have been operating a motor vehicle while under  
7 the influence of an alcoholic beverage, shall be deemed to  
8 have given consent to the withdrawal from his body of specimens  
9 of his blood, breath, saliva, or urine, and to a chemical  
10 test or tests thereof, for the purpose of determining the  
11 alcoholic content of his blood, subject to the provisions  
12 hereinafter set out. The withdrawal of such body substances,  
13 and the test or tests thereof, shall be administered at the  
14 written request of a peace officer having reasonable grounds  
15 to believe the person to have been operating a motor vehicle  
16 upon a public highway of this state while under the influence  
17 of an alcoholic beverage, and only after the peace officer  
18 has placed such person under arrest for the offense of  
19 operating a motor vehicle while under the influence of an  
20 alcoholic beverage. ~~If such person requests that a specimen~~  
21 ~~of his blood not be withdrawn, then a specimen of his breath,~~  
22 ~~saliva, or urine shall be withdrawn at the written request~~  
23 ~~of such peace officer, provided, however, that if such person~~  
24 ~~refuses to submit to any chemical testing, no test shall be~~  
25 ~~given and the provisions of section 321B.7 shall apply.~~  
26 ~~Subject to the right of a person to refuse a blood test or~~  
27 ~~to refuse to submit to any chemical testing, such peace officer~~  
28 ~~may determine which of said substances shall be tested, and~~  
29 ~~if he requires a breath test, he may also require a test of~~  
30 ~~one other of said substances.--However, if~~ The peace officer  
31 shall determine which of the four substances, breath, blood,  
32 saliva, or urine, shall be tested. Refusal to submit to a  
33 chemical test of urine, saliva or breath shall be deemed a  
34 refusal to submit, and the provisions of section 321B.7 shall  
35 apply. A refusal to submit to a chemical test of blood shall

1 not be deemed a refusal to submit, but in that case, the peace  
2 officer shall then determine which one of the other three  
3 substances shall be tested, and shall offer such test. If  
4 such peace officer fails to provide ~~such~~ a test within two  
5 hours after such arrest, no test shall be required, and there  
6 shall be no revocation under the provisions of section 321B.7.

7 Sec. 2. Section three hundred twenty-one B point eight  
8 (321B.8), Code 1973, is amended to read as follows:

9 321B.8 HEARING. Upon the written request of a person  
10 whose privilege to drive has been revoked or denied, the  
11 commissioner of public safety shall grant the person an  
12 opportunity to be heard within ~~ten~~ twenty days after the  
13 receipt of the request, but the request must be made within  
14 thirty days ~~after~~ of the effective date of revocation or  
15 denial. The hearing shall be before the commissioner or his  
16 authorized agent, in the county wherein the alleged events  
17 occurred for which the person was arrested, unless the  
18 commissioner or his authorized agent and the person agree  
19 that the hearing may be held in some other county. The hear-  
20 ing ~~shall~~ may be recorded and its scope shall cover the issues  
21 of whether a peace officer had reasonable grounds to believe  
22 the person to have been operating a motor vehicle upon a  
23 public highway of this state while under the influence of  
24 an alcoholic beverage, whether the person was placed under  
25 arrest and whether he refused to submit to the test or tests.  
26 The commissioner or his authorized agent shall order that  
27 the revocation or denial be either rescinded or sustained.

28 Sec. 3. Chapter three hundred twenty-one B (321B), Code  
29 1973, is amended by adding the following new section:

30 NEW SECTION. DRIVING WHILE LICENSE DENIED OR REVOKED.  
31 Any person whose license, or driving privilege, has been  
32 denied or revoked as provided in this chapter, and who drives  
33 any motor vehicle upon the highways of this state while such  
34 license or privilege is denied or revoked, is guilty of a  
35 misdemeanor and upon conviction shall be punished as pro-

1 vided in section three hundred twenty-one point two hundred  
2 eighteen (321.218) of the Code. The department, upon receiving  
3 the record of the conviction of any person under this section  
4 upon a charge of driving a motor vehicle while the license  
5 of such person was revoked, shall extend the period of  
6 revocation for an additional like period, and the department  
7 shall not issue a new license during such additional period.

8 EXPLANATION

9 This bill provides that a peace officer shall decide which  
10 substance, saliva, blood, breath or urine, to test for alcohol  
11 under the implied consent law. It does not require that a  
12 blood test be offered, but that if it is, the person may  
13 refuse it and then one of the other three tests must be  
14 offered. The time for granting a hearing on a license re-  
15 vocation is increased from ten to twenty days and the require-  
16 ment that it be recorded is removed. A section providing  
17 a punishment for driving while a license has been revoked  
18 is added to the implied consent law chapter.

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