

Senate File 173
Knoke, Chairman
Hennessey
Rapp
Strothman
Crawford

Reprinted 2/13/74

SENATE FILE 173

FILED FEB 12 1973

Indefinite 2-13-73, Passed per 2148 2/7

Senate File 173
Judiciary--
Kennedy, Chairman
Willits
Kelly

By DeKOSTER, KENNEDY and
GRIFFIN

Passed Senate, Date 2-15-74 (4c3) Passed House, Date _____

Vote: Ayes 45 Nays 4 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act to forbid the use of the highways of this state to
2 habitual offenders of the traffic laws, and to provide
3 punishment for those who violate the provisions of this
4 Act.

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

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1 Section 1. NEW SECTION. As used in this Act, "habitual
2 offender" means any person who has accumulated convictions
3 for separate and distinct offenses described in subsections
4 one (1), two (2), or three (3) of this section, committed
5 after July 1, 1973 and within a ten-year period, as follows:

6 1. Three or more convictions, arising from separate acts,
7 of the following offenses, either singularly or in combination:

8 a. Manslaughter resulting from the operation of a motor
9 vehicle.

10 b. Driving a motor vehicle while under the influence of
11 an alcoholic beverage or a controlled substance as defined
12 in section two hundred four point one hundred one (204.101)
13 of the Code.

14 c. Driving a motor vehicle while operator's or chauffeur's
15 license is suspended or revoked.

16 d. Willfully operating a motor vehicle without a license.

17 e. Perjury or the making of a false affidavit or statement
18 under oath to the department of public safety.

19 f. Any offense punishable as a felony under the motor
20 vehicle laws of Iowa or any felony in the commission of which
21 a motor vehicle is used.

22 g. Failure to stop and leave information or to render
23 aid as required by section three hundred twenty-one point
24 two hundred sixty-three (321.263) of the Code.

25 h. Any violation of the traffic laws, except parking regu-
26 lations, committed during a period of suspension or revocation.

27 2. Eight or more convictions of any separate and distinct
28 offenses in the operation of a motor vehicle which are required
29 to be reported to the department of public safety by section
30 three hundred twenty-one point two hundred seven (321.207)
31 of the Code.

32 3. The offenses included in subsections one (1) and two
33 (2) of this section shall be deemed to include offenses under
34 any valid town, city, or county ordinance paralleling and
35 substantially conforming to the provisions of the Code

1 concerning such offenses.

2 Sec. 2. NEW SECTION. The commissioner of public safety
3 shall certify three abstracts of the conviction record as
4 maintained in the department of public safety of any person
5 who appears to be an habitual offender, to the county attorney
6 of the county in which such person resides, or to the attorney
7 general if such person is not a resident of this state. The
8 county attorney or attorney general, upon receiving the
9 abstract from the commissioner of public safety, shall file
10 a petition against the person named therein in the district
11 court of the state of Iowa in the county wherein such person
12 resides or, in the case of a nonresident, in the district
13 court in Polk county. The petition shall request the court
14 to determine whether or not the person named therein is an
15 habitual offender.

16 Sec. 3. NEW SECTION. The abstract certified by the com-
17 missioner may be admitted as evidence as provided in section
18 six hundred twenty-two point forty-three (622.43) of the Code.
19 The abstract shall be prima facie evidence that the person
20 named therein was duly convicted by the court wherein such
21 conviction or holding was made of each offense shown by such
22 abstract, and if such person shall deny any of the facts as
23 stated therein, he shall have the burden of proving that such
24 is untrue.

25 Sec. 4. NEW SECTION. Upon the filing of the petition,
26 a judge of the district court shall enter an order
27 incorporating by attachment the aforesaid abstract and direct
28 the person named therein as defendant to appear as ordered
29 by the court and show cause why such person should not be
30 barred from operating a motor vehicle on the highways of this
31 state. A copy of the petition, the show cause order, and
32 the abstract shall be served upon the person named therein
33 as defendant in the same manner as an original notice. Service
34 of notice on any nonresident of this state may be made in
35 the same manner as provided in sections three hundred twenty-

1 one point four hundred ninety-eight (321.498) through three
2 hundred twenty-one point five hundred six (321.506), inclusive,
3 of the Code.

4 Sec. 5. NEW SECTION. If the court finds that the defendant
5 is not the same person named in the abstract, or that the
6 defendant is not an habitual offender as provided in this
7 Act, the proceeding shall be dismissed. If the court finds
8 that the defendant is an habitual offender, the court shall
9 by appropriate judgment direct that such person not operate
10 a motor vehicle on the highways of this state for a period
11 of ten years. In such case the defendant shall surrender
12 to the court all licenses or permits to operate a motor vehicle
13 upon the highways of this state. The clerk of the court shall
14 transmit a copy of such judgment together with any licenses
15 or permits surrendered to the department of public safety.

16 Sec. 6. NEW SECTION. No license to operate a motor vehicle
17 in this state shall be issued to the habitual offender for
18 a period of ten years from the date of judgment.

19 Sec. 7. NEW SECTION. It shall be unlawful for any per-
20 son convicted as an habitual offender to operate any motor
21 vehicle in this state while the judgment of the court
22 prohibiting such operation remains in effect. Any person
23 guilty of violating the provisions of this section shall upon
24 conviction be punished by imprisonment of not less than one
25 nor more than five years, and no portion of such sentence
26 shall be suspended, except that if the operation of a motor
27 vehicle by such person was required by a situation of extreme
28 emergency, said sentence, or any part thereof, may be
29 suspended.

30 Sec. 8. NEW SECTION. If the denial of the privilege to
31 drive is based entirely on charges of driving under the
32 influence of an alcoholic beverage or a controlled substance
33 as defined in section two hundred four point one hundred one
34 (204.101) of the Code, the person to whom the privilege is
35 denied may petition the court for reinstatement on the grounds

1 that all consumption of alcoholic beverages or use of
 2 controlled substances as defined in section two hundred four
 3 point one hundred one (204.101) of the Code has ceased for
 4 a period of at least fifteen months. If the court finds that
 5 such use and consumption has ceased, the court may order a
 6 provisional reinstatement of such license upon the fulfillment
 7 of all other requirements for an operator's license under
 8 chapter three hundred twenty-one (321) of the Code. Such
 9 provisional reinstatement shall be subject to the conditions
 10 of section three hundred twenty-one point one hundred eighty-
 11 one (321.181) of the Code.

12 Sec. 9. NEW SECTION. Nothing in sections one (1) through
 13 nine (9) of this Act shall be construed as amending, modifying,
 14 or repealing any existing law of this state or any ordinance
 15 of any political subdivision relating to the operation of
 16 motor vehicles, the licensing of persons to operate motor
 17 vehicles, or providing penalties for the violation thereof.

18 EXPLANATION

19 This bill will revoke, for a period of ten years, the
 20 driving privileges of those who consistently violate our
 21 traffic laws. The bill provides severe penalties for those
 22 who would continue to drive after such action is taken against
 23 them.

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S-2148

1 Amend Senate File 173 as follows:

2 1. Page 2, line 5, by striking the word "ten-year" and in-
3 serting in lieu thereof the word "six-year".

4 2. Page 2, line 31, by inserting after the word "Code" the
5 words ", except equipment violations, violations of parking
6 regulations of cities, violations of registration laws, operat-
7 ing a vehicle with an expired license or permit, failure to
8 appear, and weights and measures violations".

9 3. Page 2, line 31, by inserting after the period the words
10 "Conviction of a nonflagrant speeding violation shall not be
11 included as a violation under this subsection. For the pur-
12 poses of this subsection, a 'nonflagrant speeding violation'
13 means a speeding violation where a person is convicted of
14 speeding less than six miles per hour under the posted speed
15 limit."

16 4. Page 4, line 18, by striking the word "ten" and insert-
17 ing in lieu thereof the word "six".

18 5. Page 4, by striking lines 30 through 35, and inserting
19 in lieu thereof the following:

20 Sec. 8. NEW SECTION. When a license is suspended or revoked
21 for a period of not less than three years under the provisions
22 of this Act, the person to whom the privilege of operating a
23 motor vehicle is denied may petition the court for reinstate-
24 ment of the license. The court may, based upon the person's
25 prior record, order a provisional reinstatement of the license

Page 2

1 upon the fulfillment of all other requirements for an operator's
2 license under chapter three hundred twenty-one (321) of the Code.
3 The provisional reinstatement shall be subject to the conditions
4 of section three hundred twenty-one point one hundred eighty-
5 one (321.181) of the Code.

6 6. Page 5, by striking lines 1 through 11.

S-2148 Filed *February 2, 1974* By COMMITTEE ON JUDICIARY
February 7, 1974 *Adopted by amended by*

S-2151

1 Amend Senate File 173, page 2, line 5, by striking
2 the numeral "1973" and inserting in lieu thereof
3 "1974".

S-2151 Filed *Adopted 2/15*
February 8, 1974

By RILEY

S-2169

1 Amend Senate File 173 as follows:
2 Page 2, line 16, by striking all of line 16 and re-
3 lettering remaining paragraphs.

S-2169 Filed *Withdrawn 2/13*
February 13, 1974

By KENNEDY

S-2166

1 Amend Senate File 173, page 5, by inserting after line
2 17, the following new section:
3 Sec. ____ . NEW SECTION. Following a third conviction
4 for weight violations under section three hundred twenty-
5 one point four hundred sixty-three (321.463) of the Code
6 within one year, the owner of any vehicle shall, upon
7 conviction for any subsequent violation of the weight
8 laws, be subject to a fine of one thousand dollars for
9 each violation in addition to any other penalties pro-
10 vided by law.

S-2166 Filed *Referred out of order 2/14* By GLUBA and DODERER
February 13, 1974

S-2164

1 Amend the Committee on Judiciary amendment, S-2148,
2 to Senate File 173, found on page 350 of the February 11,
3 1974 Senate Journal, as follows:
4 1. Page 1, by striking lines 2 and 3 and inserting
5 in lieu thereof the following:
6 1. Page 2, line 5, by striking the words "and within
7 a ten-year period".
8 2. Page 1, by inserting after line 3 the following:
9 2. Page 2, line 6, by inserting after the word
10 "convictions" the words "within a six-year period".
11 3. Page 2, line 27, by striking the word "Eight"
12 and inserting in lieu thereof the word "Six".
13 4. Page 2, line 28, by inserting after the word
14 "offenses" the words "within a two-year period".
15 3. Page 1, by striking lines 16 and 17 and inserting
16 in lieu thereof the following:
17 ____ . Page 4, by striking lines 16, 17, and 18 and in-
18 serting in lieu thereof the following new section:
19 Sec. 6. NEW SECTION. A license to operate a motor
20 vehicle in this state shall not be issued to any person
21 declared to be a habitual offender under section one
22 (1), subsection one (1) of this Act for a period of six
23 years from the date of judgment. A license to operate
24 a motor vehicle in this state shall not be issued to any
25 person declared to be an habitual offender under section

Page 2

1 one (1), subsection two (2) of this Act for a period of
2 one year from the date of judgment.

S-2164 Filed *Pending 2/14*
February 13, 1974

By KINLEY, MCCARTNEY, RABEDEAUX
and RODGERS

S-2157

1 Amend S-2148 to page 2 of Senate File 173, by
2 Committee on Judiciary, filed February 7, 1974 as
3 follows:
4 "Line 14, by striking the word "under" and insert-
5 ing in lieu thereof the word "over".

S-2157 Filed. *Revised out of order by* By WILLITS
February 11, 1974 *adoption of 2163*

S-2163

1 Amend the Committee on Judiciary amendment, S-2148,
2 to Senate File 173, page 1, by striking lines 13 through
3 15 and inserting in lieu thereof the words "means a
4 speeding violation where a person is convicted of exceed-
5 ing, by less than six miles per hour, the speed limits
6 as enumerated under sections three hundred twenty-one
7 point two hundred eighty-five (321.285), three hundred
8 twenty-one point two hundred eighty-six (321.286), and
9 three hundred twenty-one point two hundred eighty-seven
10 (321.287) of the Code and any conviction for violation
11 of speed limits imposed under Senate File one thousand
12 thirteen (1013), Acts of the Sixty-fifth General
13 Assembly, 1974 Session, shall not be considered a con-
14 viction for purposes of this Act.

S-2163 Filed. *Adopted 2/13* By BLOUIN and KENNEDY
February 13, 1974

February 18, 1974

Justice - Law Enforcement 2/9, Pass per 2464

SENATE FILE 173

By DeKOSTER, KENNEDY and GRIFFIN

**SENATE AMENDMENTS
SHOWN IN BOLD FACE**

(AS PASSED BY THE SENATE)

Passed Senate, Date *4-5-74 (1302)* ^{*in committee by house*} Passed House, Date *7-1-74 (1380)*

Vote: Ayes *45* Nays *2* Vote: Ayes *61* Nays *17*

Approved *April 25, 1974*

A BILL FOR

- 1 An Act to forbid the use of the highways of this state to
- 2 habitual offenders of the traffic laws, and to provide
- 3 punishment for those who violate the provisions of this
- 4 Act.
- 5 *Be It Enacted by the General Assembly of the State of Iowa:*

H-2711

- 1 Amend the Committee on Judiciary and Law Enforce-
- 2 ment amendment, H-2454, to Senate File 173, as passed
- 3 by the Senate and reprinted, as follows:
- 4 1. By striking line 3 and inserting in lieu
- 5 thereof the following:
- 6 1. Page 2A, by striking line 17 and inserting in
- 7 lieu thereof the following:
- 8 d. Operating a motor vehicle without a license.
- 9 However, this paragraph shall not be applicable if the
- 10 violator has had any kind of valid operator's or
- 11 chauffeur's license in force at any time within the
- 12 preceding two years.

H-2711 Filed and lost
April 1, 1974

By STANLEY of Muscatine
ANDERSON of Ringgold

1 Section 1. *NEW SECTION.* As used in this Act, "habitual
2 offender" means any person who has accumulated convictions
3 for separate and distinct offenses described in subsections
4 one (1), two (2), or three (3) of this section, committed
5 after July 1, 1974 , as follows:

6 1. Three or more convictions within a six-year period,
7 arising from separate acts,
8 of the following offenses, either singularly or in combination:

9 a. Manslaughter resulting from the operation of a motor
10 vehicle.

11 b. Driving a motor vehicle while under the influence of
12 an alcoholic beverage or a controlled substance as defined
13 in section two hundred four point one hundred one (204.101)
14 of the Code.

15 c. Driving a motor vehicle while operator's or chauffeur's
16 license is suspended or revoked.

17 d. Willfully operating a motor vehicle without a license.

18 e. Perjury or the making of a false affidavit or statement
19 under oath to the department of public safety.

20 f. Any offense punishable as a felony under the motor
21 vehicle laws of Iowa or any felony in the commission of which
22 a motor vehicle is used.

23 g. Failure to stop and leave information or to render
24 aid as required by section three hundred twenty-one point
25 two hundred sixty-three (321.263) of the Code.

26 h. Any violation of the traffic laws, except parking regu-
27 lations, committed during a period of suspension or revocation.

28 2. Six or more convictions of any separate and distinct
29 offenses within a two-year period

30 in the operation of a motor vehicle which are required
31 to be reported to the department of public safety by section
32 three hundred twenty-one point two hundred seven (321.207)
33 of the Code, except equipment violations, violations of parking
34 regulations of cities, violations of registration laws, operat-
35 ing a vehicle with an expired license or permit, failure to

36 appear, and weights and measures violations. Conviction of a
37 nonflagrant speeding violation shall not be included as a
38 violation under this subsection. For the purposes of this sub-
39 section, a "nonflagrant speeding violation" means a speeding
40 violation where a person is convicted of exceeding, by less
41 than six miles per hour, the speed limits as enumerated under
42 sections three hundred twenty-one point two hundred eighty-five
43 (321.285), three hundred twenty-one point two hundred eighty-six
44 (321.286), and three hundred twenty-one point two hundred eighty-
45 seven (321.287) of the Code and any conviction for violation of
46 speed limits imposed under Senate File one thousand thirteen
47 (1013), Acts of the Sixty-fifth General Assembly, 1974 Session,
48 shall not be considered a conviction for purposes of this Act.

49 3. The offenses included in subsections one (1) and two
50 (2) of this section shall be deemed to include offenses under
51 any valid town, city, or county ordinance paralleling and
52 substantially conforming to the provisions of the Code

1 concerning such offenses.

2 Sec. 2. *NEW SECTION.* The commissioner of public safety
3 shall certify three abstracts of the conviction record as
4 maintained in the department of public safety of any person
5 who appears to be an habitual offender, to the county attorney
6 of the county in which such person resides, or to the attorney
7 general if such person is not a resident of this state. The
8 county attorney or attorney general, upon receiving the
9 abstract from the commissioner of public safety, shall file
10 a petition against the person named therein in the district
11 court of the state of Iowa in the county wherein such person
12 resides or, in the case of a nonresident, in the district
13 court in Polk county. The petition shall request the court
14 to determine whether or not the person named therein is an
15 habitual offender.

16 Sec. 3. *NEW SECTION.* The abstract certified by the com-
17 missioner may be admitted as evidence as provided in section
18 six hundred twenty-two point forty-three (622.43) of the Code
19 The abstract shall be prima facie evidence that the person
20 named therein was duly convicted by the court wherein such
21 conviction or holding was made of each offense shown by such
22 abstract, and if such person shall deny any of the facts as
23 stated therein, he shall have the burden of proving that such
24 is untrue.

25 Sec. 4. *NEW SECTION.* Upon the filing of the petition,
26 a judge of the district court shall enter an order
27 incorporating by attachment the aforesaid abstract and direct
28 the person named therein as defendant to appear as ordered
29 by the court and show cause why such person should not be
30 barred from operating a motor vehicle on the highways of this
31 state. A copy of the petition, the show cause order, and
32 the abstract shall be served upon the person named therein
33 as defendant in the same manner as an original notice. Service
34 of notice on any nonresident of this state may be made in
35 the same manner as provided in sections three hundred twenty-

1 one point four hundred ninety-eight (\$21.498) through three
2 hundred twenty-one point five hundred six (321.506), inclusive,
3 of the Code.

4 Sec. 5. *NEW SECTION.* If the court finds that the defendant
5 is not the same person named in the abstract, or that the
6 defendant is not an habitual offender as provided in this
7 Act, the proceeding shall be dismissed. If the court finds
8 that the defendant is an habitual offender, the court shall
9 by appropriate judgment direct that such person not operate
10 a motor vehicle on the highways of this state for a period
11 of ten years. In such case the defendant shall surrender
12 to the court all licenses or permits to operate a motor vehicle
13 upon the highways of this state. The clerk of the court shall
14 transmit a copy of such judgment together with any licenses
15 or permits surrendered to the department of public safety.

16 Sec. 6. *NEW SECTION.* A license to operate a motor
17 vehicle in this state shall not be issued to any person
18 declared to be an habitual offender under section one (1),
19 subsection one (1) of this Act for a period of six years
20 from the date of judgment. A license to operate a motor
21 vehicle in this state shall not be issued to any person
22 declared to be an habitual offender under section one (1),
23 subsection two (2) of this Act for a period of one year
24 from the date of judgment.

25 Sec. 7. *NEW SECTION.* It shall be unlawful for any per-
26 son convicted as an habitual offender to operate any motor
27 vehicle in this state while the judgment of the court
28 prohibiting such operation remains in effect. Any person
29 guilty of violating the provisions of this section shall upon
30 conviction be punished by imprisonment of not less than one
31 nor more than five years, and no portion of such sentence
32 shall be suspended, except that if the operation of a motor
33 vehicle by such person was required by a situation of extreme
34 emergency, said sentence, or any part thereof, may be
35 suspended.

H-2702

1 Amend the Committee on Judiciary and Law Enforce-
2 ment amendment, H-2454, to Senate File 173 as follows:

Division H-2702A

3 1. By striking line 3 and inserting in lieu
4 thereof the following:

5 1. Page 2A, by striking line 17 and inserting in
6 lieu thereof the following:

7 d. Operating a motor vehicle without a license,
8 except operating with an expired license or permit.

Division H-2702B

9 2. Lines 26 through 29, by striking the words
10 "and notwithstanding the provisions of section six
11 hundred eighty-seven point two (687.2) of the Code,
12 such conviction shall constitute a misdemeanor and not
13 a felony".

H-2702A Filed and withdrawn By STANLEY of Muscatine

H-2702B Filed and lost

April 1, 1974

HOUSE AMENDMENT TO SENATE FILE 173

1 Amend Senate File 173 as passed by the Senate and
2 reprinted as follows:

3 1. Page 2A, by striking line 7.

4 2. Page 2A, by striking line 17.

5 3. Page 2A, line 20, by striking the word "Any" and in-
6 serting in lieu thereof the word "An".

7 4. Page 2A, line 26, by striking the word "Any" and in-
8 serting in lieu thereof the word "A".

9 5. Page 2B, line 36, by inserting after the word
10 "violations" the words "and speeding violations of less than
11 six miles per hour over the legal speed limit, as provided
12 by law prior to enactment of Senate File one thousand
13 thirteen (1013), Acts of the Sixty-fifth General Assembly,
14 1974 Session".

15 6. Page 2B, line 36, by striking the words "Conviction of
16 a" and all of lines 37 through 48.

17 7. Page 4, by striking lines 10 and 11 and inserting in
18 lieu thereof the followig: "a motor vehicle on the highways
19 of this state for the period specified in section six (6) of
20 this Act. In such case the defendant shall surrender".

21 8. Page 4, lines 27 and 28, by striking the words "while
22 the judgment of the court prohibiting such operation remains
23 in effect" and inserting in lieu thereof the words "during
24 the period of time specified in section six (6) of this Act."

25 9. Page 4, by striking lines 30 through 35 and inserting

Page 2

1 in lieu thereof: "conviction be punished by imprisonment in
2 the penitentiary for not more than two years and notwith-
3 standing the provisions of section six hundred eighty-seven
4 point two (687.2) of the Code, such conviction shall constitute
5 a misdemeanor and not a felony."

6 10. Page 5, by striking lines 1 through 11.

7 11. By correcting internal references and renumbering
8 sections, subsections and paragraphs.

Received from the House
April 3, 1974

Senate concurred 4/5

H—2454

1 Amend Senate File 173, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 2A, by striking line 17. *A. Adopted 4/1 (377)*
4 2. Page 2A, line 20, by striking the word "Any" *B. Adopted 4/1 (364)*
5 and inserting in lieu thereof the word "An".
6 3. Page 2A, line 26, by striking the word "Any"
7 and inserting in lieu thereof the word "A".
8 4. Page 2B, line 36, by inserting after the *C. Adopted 4/1*
9 word "violations" the words "and speeding
10 violations of less than six miles per hour over
11 the legal speed limit, as provided by law prior to
12 enactment of Senate File one thousand thirteen (1013),
13 Acts of the Sixty-fifth General Assembly, 1974
14 Session".
15 5. Page 2B, line 36, by striking the words
16 "Conviction of a".
17 6. Page 2B, by striking lines 37 through 48.
18 7. Page 4, by striking lines 10 and 11 and *D. Adopted 4/1*
19 inserting in lieu thereof the following: "a motor
20 vehicle on the highways of this state for the period
21 specified in section six (6) of this Act. In such
22 case the defendant shall surrender".
23 8. Page 4, by striking lines 30 through 35 and *E. Adopted 4/1*
24 inserting in lieu thereof: "conviction be punished
25 by imprisonment in the penitentiary for not more
26 than two years and notwithstanding the provisions of
27 section six hundred eighty-seven point two (687.2)
28 of the Code, such conviction shall constitute a
29 misdemeanor and not a felony."
30 9. Page 5, by striking lines 1 through 11. *F. Adopted 4/1*
31 10. By correcting internal references and *G. Adopted 4/1*
32 renumbering sections, subsections and paragraphs.

H—2454 Filed
March 12, 1974

By COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT
HILL of Polk, Chairman

H—2710

1 Amend Senate File 173, as passed by the Senate
2 and reprinted, as follows:
3 Page 4, lines 27 and 28, by striking the words
4 "while the judgment of the court prohibiting such
5 operation remains in effect" and inserting in lieu
6 thereof the words "during the period of time specified
7 in section six (6) of this Act."

H—2710 Filed and adopted
April 1, 1974

By STANLEY of Muscatine
KNOKE of Pottawattamie

H—2707

1 Amend Senate File 173 as passed by the Senate
2 and reprinted as follows:
3 Page 2A, by striking line 7.

H—2707 Filed and adopted
April 1, 1974

By KNOKE of Pottawattamie