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HOUSE FILE 2486

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

Place On Calendar

(Formerly Study Bill 744)

Passed House, Date 3-9-84 (p. 927) Passed Senate, Date _____

Vote: Ayes 76 Nays 13 Vote: Ayes _____ Nays _____

Approved 5-14-84
Stem

A BILL FOR

1 An Act providing a fine or unpaid community service for a
2 first offense of operating a motor vehicle while intoxi-
3 cated, requiring a substance abuse evaluation for those
4 convicted of or receiving a deferred sentence on a charge
5 of operating a motor vehicle while intoxicated, requiring
6 fifty hours of community service from those receiving a
7 deferred sentence, revoking the license of a person
8 convicted of a second or subsequent offense for five
9 years, revoking the license of a person convicted of
10 operating a motor vehicle while intoxicated for one
11 additional year if the person caused an accident result-
12 ing in serious injury and for life if the person caused
13 an accident in which there was a loss of life, allowing
14 a person whose license was revoked for causing a serious
15 injury to obtain a temporary restricted driving permit,
16 and establishing new penalties for persons convicted of
17 operating a motor vehicle without a license if the
18 person's license was revoked under section 321.281, or
19 chapter 321B.

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

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HF 2486

Section 1. Section 321.281, subsection 2, paragraph a,
Code 1983, is amended to read as follows:

a. A serious misdemeanor for the first offense and shall
be imprisoned in the county jail for not less than forty-eight
hours to be served as ordered by the court, less credit for
any time the person was confined in a jail or detention
facility following arrest and assessed a fine of not less
than two hundred and fifty nor more than one thousand dollars.
As an alternative to the fine, the court may order the person
to perform not less than fifty nor more than two hundred hours
of unpaid community service. Neither the minimum term nor
the fine assessed may be suspended notwithstanding section
901.5, subsection 3 and section 907.3, subsection 2. The
court shall order the defendant to undergo a substance abuse
evaluation under section 125.33. The court may accommodate
the sentence to the work schedule of the defendant.

Sec. 2. Section 321.281, subsection 6, Code 1983, is
amended to read as follows:

6. If the court defers judgment pursuant to section 907.3
for an offense under this section, the court shall order the
defendant to undergo a substance abuse evaluation under section
125.33 and shall order the defendant to perform fifty hours
of unpaid community service. The court shall order that the
defendant's license to operate a motor vehicle be revoked
for a period of not less than thirty days nor more than ninety
days, during which time no new license to operate a motor
vehicle shall be issued to the defendant. The court shall
immediately require the defendant to surrender to it all
operator's or chauffeur's licenses held by the defendant which
the court shall forward to the department with a copy of the
order deferring judgment. A person whose license to operate
a motor vehicle is revoked pursuant to this subsection may
be issued a temporary restricted driving permit by the
department allowing the person to drive to and from the
person's home and place of employment and in the person's

1 employment and to attend evaluation, treatment or educational
2 services for alcohol or drug dependency, if the person's
3 license to operate a motor vehicle is not subject to revocation
4 under section 321B.13 for refusal to submit to chemical
5 testing.

6 Sec. 3. Section 321.281, subsection 9, Code 1983, is
7 amended to read as follows:

8 9. a. Upon a plea or verdict of guilty of a ~~third~~ second
9 or subsequent violation of this section, the court in which
10 the plea was entered or the verdict was returned shall order
11 that the defendant's license or permit to operate motor
12 vehicles be revoked by the department and that the defendant
13 shall remain ineligible for a new license or permit for a
14 period of ~~six~~ five years. Any license or permit to operate
15 motor vehicles held by the defendant shall be surrendered
16 to the court who shall forward it to the department with a
17 copy of the order for revocation.

18 b. After ~~two-years~~ one year from the date of the order
19 for revocation, the defendant may apply to the court for
20 restoration of the defendant's eligibility for a license or
21 permit to operate motor vehicles. The application may be
22 granted only if all of the following are shown by the defendant
23 by a preponderance of the evidence:

24 (1) The defendant has completed an evaluation and, if
25 recommended by the evaluation, a program of treatment for
26 chemical dependency, ~~and is-recovering,-or~~ has substantially
27 recovered, from that dependency on or tendency to abuse alcohol
28 or drugs, and an evaluation within the preceeding thirty days
29 indicates no further treatment is required.

30 (2) The defendant has not been convicted, since the date
31 of the revocation order, of any subsequent violations of this
32 section or section 123.46, or any comparable city or county
33 ordinance, and the defendant has not, since the date of the
34 revocation order, submitted to a chemical test under chapter
35 321B that indicated ten hundredths or more of one percent

1 by weight of alcohol in the person's blood or refused to
2 submit to chemical testing under that chapter.

3 (3) The defendant has abstained from the excessive
4 consumption of alcoholic beverages and the consumption of
5 controlled substances, except at the direction of a licensed
6 physician or pursuant to a valid prescription.

7 (4) The defendant's license or permit is not currently
8 subject to suspension or revocation for any other reason.

9 c. The court shall forward to the department a record
10 of any application submitted under paragraph "b" and the
11 results of the court's disposition of the application.

12 d. Upon a plea or verdict of guilty of a violation of
13 this section during the occurrence of which there was an
14 accident causing a serious injury in which the defendant was
15 judged to be at fault, the court in which the plea was entered
16 or the verdict was returned shall order that the defendant's
17 license or permit to operate motor vehicles be revoked by
18 the department and that the defendant shall remain ineligible
19 for a new license or permit for a period of one year in
20 addition to any other period of suspension. Any license or
21 permit to operate motor vehicles held by the defendant shall
22 be surrendered to the court who shall forward it to the
23 department with a copy of the order for revocation. A person
24 whose license to operate a motor vehicle has been revoked
25 pursuant to this subsection may be issued a temporary
26 restricted driving permit by the department allowing the
27 person to drive to and from the person's home and place of
28 employment and in the course of the person's employment upon
29 the completion by the defendant of a substance abuse evaluation
30 under section 125.33 and completion of a program of treatment
31 if recommended.

32 e. Upon a plea or verdict of guilty of a violation of
33 this section during the occurrence of which there was an
34 accident which caused a loss of life for which the defendant
35 was judged to be at fault, the court in which the plea was

1 entered or the verdict was returned shall order that the
2 defendant's license or permit to operate motor vehicles be
3 revoked by the department and that the defendant shall never
4 be eligible for a new license or permit. Any license or
5 permit to operate motor vehicles held by the defendant shall
6 be surrendered to the court who shall forward it to the
7 department with a copy of the order for revocation.

8 Sec. 4. Section 321.282, Code 1983, is amended to read
9 as follows:

10 321.282 VIOLATIONS. A person whose license or privilege
11 to operate is revoked or denied because the person has been
12 convicted or has pleaded guilty to a violation of section
13 321.281 or is revoked under subsection 6 of that section who
14 is found driving or operating any motor vehicle upon a highway
15 in this state while the license or privilege is revoked or
16 denied is upon conviction or a plea of guilty, guilty of a
17 serious-misdemeanor-:

18 1. A serious misdemeanor for a first offense punishable
19 by imprisonment in the county jail for not less than seven
20 days.

21 2. An aggravated misdemeanor for a second and subsequent
22 offense.

23 Sec. 5. Section 321B.38, Code 1983, is amended to read
24 as follows:

25 321B.38 DRIVING WHILE LICENSE DENIED OR REVOKED. Any
26 person whose license or driving privilege has been denied
27 or revoked as provided in this chapter and who drives any
28 motor vehicle upon the highways of this state while the license
29 or privilege is denied or revoked is guilty of a serious
30 misdemeanor for a first offense punishable by imprisonment
31 in the county jail for not less than seven days and is guilty
32 of an aggravated misdemeanor for a second and subsequent
33 offense. The department, upon receiving the record of the
34 conviction of any person under this section upon a charge
35 of driving a motor vehicle while the license of the person

1 was revoked or denied, shall extend the period of revocation
2 or denial for an additional like period, and the department
3 shall not issue a new license during the additional period.

4 EXPLANATION

5 This bill provides that a person convicted of operating
6 a motor vehicle while intoxicated (OMVUI) will be assessed
7 a fine of not less than two hundred and fifty nor more than
8 one thousand dollars, or perform as an alternative not less
9 than fifty nor more than two hundred hours of unpaid community
10 service and undergo a substance abuse evaluation. The bill
11 also provides that neither the minimum jail sentence or the
12 fine or community service may be suspended or deferred. The
13 bill requires that a person receiving a deferred judgment
14 shall undergo a substance abuse evaluation and perform fifty
15 hours of unpaid community service.

16 The bill requires a person convicted of OMVUI for a second
17 or subsequent offense shall have the person's license suspended
18 for five years. The bill also provides for revocation of
19 the license of a person convicted of OMVUI for one year if
20 the person caused an accident resulting in a serious injury
21 and for life if the person caused an accident resulting in
22 a loss of life.

23 The bill provides that a person convicted of operating
24 a motor vehicle without a license when the person's license
25 was revoked under section 321.281 or chapter 321B is guilty
26 of a serious misdemeanor punishable by a term in the county
27 jail for not less than seven days for a first offense and
28 is guilty of an aggravated misdemeanor for a second offense.

29 This bill takes effect July 1 following enactment.

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HOUSE FILE 2486

FISCAL NOTE

REQUESTED BY REPRESENTATIVE ROSENBERG.

In compliance with a written request received March 2, 1984, there is hereby submitted a Fiscal Note for HOUSE FILE 2486 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the General Assembly upon request.

House File 2486 makes several changes to the penalties for convictions of operating a motor vehicle while intoxicated. The provisions of the bill that are expected to have a fiscal impact are:

Court ordered substance abuse evaluations:

In calendar year 1983, there were 16,751 dispositions for first and second OMVUI offenses. Assumptions are:

85.2% First time offenders = 14,272

14.8% Second time offenders = 2,479

Sections 1 and 2 of this bill require a substance abuse evaluation for persons receiving a conviction of or deferred judgement for a first time OMVUI offense. Assuming 50% of these individuals would be referred to public programs, an additional 7,136 clients would be evaluated by the local Iowa Department of Substance Abuse programs. The average reimbursement rate of an individual assessment is \$54.25.

Fiscal Effect:	<u>Fiscal Year 1985</u>	<u>Fiscal Year 1986</u>
	\$ 387,128	\$ 387,128

Assuming 15% of first time offenders referred to public programs and 50% of second and subsequent offenders would be placed in treatment, an additional 1,690 would be served in these programs. Currently, the treatment population being served is 72% outpatient and 28% inpatient. An additional 1,217 individuals at an average outpatient cost of \$500 would have the following fiscal impact:

Fiscal Impact:	<u>Fiscal Year 1985</u>	<u>Fiscal Year 1986</u>
	\$ 608,500	\$ 608,500

An additional 474 individuals at an average inpatient cost of \$1,180 would have the following fiscal impact:

Fiscal Impact:	<u>Fiscal Year 1985</u>	<u>Fiscal Year 1986</u>
	\$ 559,320	\$ 559,320

Section 3 of the bill requires all second time offenders who wish to apply to the court for early reinstatement of their licenses to undergo a substance abuse evaluation within the preceding thirty days of the application. This would add a possible 620 individuals to evaluation list in FY '86.

Fiscal Effect	<u>Fiscal Year 1986</u>
	\$ 33,635

Total Fiscal Impact for the substance abuse treatment and evaluation is as follows:

Fiscal Effect	<u>Fiscal Year 1985</u>	<u>Fiscal Year 1986</u>
	\$ 1,554,948	\$ 1,588,583

Page Two, Fiscal Note, House File 2486

Assessment of a fine or unpaid community service:

Section 1 requires that persons convicted of a first offense be assessed a fine of not less than \$250 nor more than \$1,000, or perform from 50 to 200 hours of unpaid community service. While it is not known how the courts would implement this section, the following table shows the range of revenue to the state general fund if the court imposes a fine on all, or on 50%, of those convicted of a first offense.

	Estimated Revenue	
	\$250 Fine	\$1,000 Fine
100% Fined	\$ 3,568,000	14,272,000
50% Fined	1,784,000	7,136,000

The court also has the option of sentencing persons convicted of a first offense to from 50 to 100 hours of unpaid community services. It is assumed that staff in the district department of correctional services would be assigned to coordinate and supervise these activities.

The following table shows the projected expense if all persons convicted of a first offense were required to perform unpaid community service or if 50% were required to perform unpaid community service.

	Fiscal Impact	
	No. of Additional Staff	Cost
100%	12	\$ 269,000
50%	8	178,000

License to operate a motor vehicle revocations:

Section 3 increases the number of persons whose license to operate a motor vehicle will be revoked.

At this time the department of transportation cannot estimate if additional FTE's will be needed to deal with the change of processing revocations.

Summary: The following table shows the estimated total impact on the state general fund using the assumptions that 50% of those convicted of a first offense will be fined \$250, and 50%, will be sentenced to unpaid community service.

	FY 1984	FY 1985
Revenue from fines	\$ 1,784,000	1,784,000
Substance Abuse Evaluations	(1,554,948)	(1,588,583)
Community Service Supervision	(178,000)	(178,000)
Total Impact	\$ 51,052	47,414

(3975H, 84-256D, DAW)

Source: Supreme Court
Iowa Dept. of Substance Abuse
Dept. of Transportation
Dept. of Corrections

H-5530

- 1 Amend House File 2486 as follows:
 2 1. Page 1, by inserting before line 1 the
 3 following:
 4 "Section 1. NEW SECTION. 123.151 PRELIMINARY
 5 SCREENING TESTS AVAILABLE. Each commercial
 6 establishment holding a license or permit under this
 7 chapter which allows the consumption of an alcoholic
 8 beverage or beer on the premises shall maintain a
 9 test machine and an adequate supply of testing
 10 receptacles used for the preliminary screening test
 11 under section 321B.3 for breath analysis of blood
 12 alcohol content. The establishment shall make the
 13 test available for use by its customers and may impose
 14 a charge, not exceeding fifty cents, for its use.
 15 The department shall assist licensees and permittees
 16 in obtaining test machines and receptacles."

BY STURGEON of Woodbury
 O'KANE of Woodbury
 GRONSTAL of Pottawattamie
 LLOYD-JONES of Johnson

H-5530 FILED MARCH 8, 1984
Filed not given 3/9 (p. 898)

HOUSE FILE 2486

H-5531

- 1 Amend House File 2486 as follows:
 2 1. Page 1, by inserting after line 16 the
 3 following:
 4 "Sec. ____ Section 321.281, subsection 2,
 5 unnumbered paragraph 2, Code 1983, is amended to read
 6 as follows:
 7 No conviction for, or plea of guilty to, a violation
 8 of this section ~~which occurred more than six years~~
 9 ~~prior to the date of the violation charged~~ or a
 10 violation of a corresponding statute of any other
 11 state that would have been a violation of this section
 12 if it had occurred in this state shall be considered
 13 in determining that the violation charged is a second,
 14 third or subsequent offense if that previous violation
 15 occurred more than six years prior to the date of
 16 the violation charged."
 17 2. By renumbering sections as required by this
 18 amendment.

H-5531 FILED MARCH 8, 1984 BY TABOR of Jackson
Placed out of order 3/9 (p. 925)

HOUSE FILE 2486

H-5532

- 1 Amend House File 2486 as follows:
 2 1. Page 4, by inserting before line 8 the
 3 following:
 4 "Sec. ____ Section 321.281, Code 1983, is amended
 5 by adding the following new subsection:
 6 NEW SUBSECTION. The court may assess as court
 7 costs the cost of imprisoning a person for the minimum
 8 sentence required for a conviction of a violation
 9 of this section. The cost of imprisonment may not
 10 exceed a maximum of forty dollars per day."

H-5532 FILED MARCH 8, 1984 BY JAY of Appanoose
Added 3/9 (p. 917) CARL of Poweshiek

H-5525

- 1 Amend House File 2486 as follows:
- 2 1. Page 1, lines 21 and 22, by striking the words
- 3 "under section 125.33" and inserting in lieu thereof
- 4 the words "as ordered by the court".

BY ROSENBERG of Story

H-5525 FILED MARCH 8, 1984

JAY of Appanoose

Adopted 3/9 (p. 900)
Placed on order (p. 925)

HOUSE FILE 2486

H-5528

- 1 Amend House File 2486 as follows:
- 2 1. Page 1, by inserting after line 16 the
- 3 following:
- 4 "Sec. ____ Section 321.281, subsection 2, paragraph
- 5 b, Code 1983, is amended to read as follows:
- 6 b. An aggravated misdemeanor for a second offense
- 7 and shall be imprisoned in the county jail or
- 8 community-based correctional facility not less than
- 9 seven thirty days, which minimum term cannot be
- 10 suspended notwithstanding section 901.5, subsection
- 11 3 and section 907.3, subsection 2."
- 12 2. By renumbering as required by this amendment.

BY STURGEON of Woodbury
O'KANE of Woodbury
HALVORSON of Clayton
MCINTEE of Black Hawk
MILLER of Woodbury
ZIMMERMAN of Dallas
HERMANN of Scott

Placed on order (p. 925)
Adopted 3/9 (p. 900)

H-5528 FILED MARCH 8, 1984

HOUSE FILE 2486

H-5529

- 1 Amend House File 2486 as follows:
- 2 1. Page 4, by inserting after line 7 the following:
- 3 "Sec. ____ Section 321.281, Code 1983, is amended by
- 4 adding the following new subsection:
- 5 NEW SUBSECTION. If a defendant is convicted of
- 6 a first offense of this section and the defendant's
- 7 license or permit to operate a motor vehicle is revoked
- 8 under section 321.209 or chapter 321B for the
- 9 occurrence from which the arrest arose, the period
- 10 of revocation shall be the period provided for such
- 11 a revocation or until the defendant reaches the age
- 12 of nineteen whichever period is longer."

BY OSTERBERG of Linn
MCINTEE of Black Hawk
HAVERLAND of Polk
HANSON of Delaware
HAMMOND of Story
LONERGAN of Boone
ARNOULD of Scott
PEICK of Linn
TORRENCE of Muscatine
OLLIE of Clinton
ROYER of Page
BRANSTAD of Winnebago
BENNETT of Ida
PAULIN of Plymouth

Adopted as amended by 5576 3/9 (p. 919)
H-5529 FILED MARCH 8, 1984

HOUSE FILE 2486

AMENDMENT H-5540

REQUESTED BY REPRESENTATIVE MCKEAN

In compliance with a written request received March 9, 1984, there is hereby submitted a Fiscal Note for AMENDMENT H-5540 to HOUSE FILE 2486 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the General Assembly upon request.

Amendment H-5540 changes the fiscal impact of House File 2486 as follows:

Amendment H-5540 imposes a fine of at least \$500 for persons convicted of a first offense OMVUI, not less than \$800 for persons convicted of a second offense and not less than \$1,000 for a third or subsequent offense. No data is available on the number of third offense OMVUI and the following estimate is based solely on data on first and second offense OMVUI. The maximum effect on revenues to the state is:

	H-5540	H.F. 2486	Net Effect
First Offense	\$ 7,136,000	3,568,000	3,568,000
Second Offense	1,983,200	0	1,983,200
Total	\$ 9,119,200	3,568,000	5,551,200

If only 50% of those convicted could pay the fine, the revenue would be as follows:

	H-5540	H.F. 2486	Net Effect
First Offense	\$ 3,568,000	1,784,000	1,784,000
Second Offense	991,600	0	991,600
Total	\$ 4,559,600	1,784,000	2,775,600

Persons convicted of a third or subsequent offense are also required to be imprisoned for a term of from 30 to 180 days in a county jail or community-based correction facility. Currently, 30% of third and subsequent offense OMVUI offenders are incarcerated in a state or local facility. Due to lack of data, cost projection is not possible.

Substance abuse evaluations:

H-5540 strikes the mandatory evaluation for a substance abuse problem. It allows the court to order a person for treatment or evaluation and provides that the cost of such services shall be paid by the defendant. It also provides that if an individual cannot pay for services, they shall be eligible for free services. Currently, 39% of the substance abuse clients are referred by the court. As this amendment does not change the manner in which people are court-ordered into evaluation, the fiscal effect of the amendment is to save the state the cost of such mandatory treatment and evaluation.

Page Two, Fiscal Note, House File 2486 as amended by H-5540

It leaves intact the mandated evaluation for a second-time offender who wishes to have his license reinstated. The cost to the state general fund is estimated to be:

	<u>H-5540</u>	<u>H.F. 2486</u>	<u>Net Effect</u>
Intake Substance Abuse Evaluations	\$ 0	1,554,948	(1,554,948)
Exit Evaluations	<u>33,635</u>	<u>33,635</u>	<u>0</u>
Total	\$ <u>33,635</u>	<u>1,554,948</u>	<u>(1,554,948)</u>

The estimated effect of H-5540 on the state general fund is an increase revenues by \$4,559,600 in FY 1985 and by \$4,525,965 in FY 1986.

(3975H.01, 84-256D, DAW)

Source: Dept. of Substance Abuse
Supreme Court
Statistical Analysis Center

FILED MARCH 9, 1984

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2486

H-5540

Amend House File 2486 as follows:

1. By striking page 1, line 1 through page 2, line 5, and inserting in lieu thereof the following:

"Sec. ____ Section 321.1, Code Supplement 1983, is amended by adding the following new subsections:

NEW SUBSECTION. "Alcohol concentration" means the number of grams of alcohol per any of the following:

a. One hundred milliliters of blood.

b. Two hundred ten liters of breath.

c. Sixty-seven milliliters of urine.

NEW SUBSECTION. "Alcoholic beverage" includes alcohol, wine, spirits, beer, or any other beverage which contains ethyl alcohol and is fit for human consumption.

Sec. ____ Section 321.213, Code 1983, is amended to read as follows:

321.213 LICENSE SUSPENSIONS OR REVOCATIONS DUE TO VIOLATIONS BY JUVENILE DRIVERS. Upon the entering entry of an order at the conclusion of an adjudicatory hearing under section 232.47 that the child violated a provision of this chapter or chapter 321A or 321B for which the penalty is greater than a simple misdemeanor, ~~or that the child refused to submit to chemical testing under section 321B.4,~~ the clerk of the juvenile court in the adjudicatory hearing shall forward a copy of the adjudication to the department. Notwithstanding section 232.55, a final adjudication in a juvenile court that the child violated a provision of this chapter or chapter 321A or 321B constitutes a final conviction of a the respective violation of ~~a provision of this chapter or chapter 321A~~ for purposes of section 321.189, subsection 2, paragraph "b", and sections 321.193, 321.194, 321.200, 321.209, 321.210, 321.215, and 321A.17. ~~Notwithstanding section 232.55, the director shall revoke the license or permit of a child under section 321B.13 upon receipt of a copy of the final adjudication in a juvenile court that the child refused to submit to chemical testing under section 321B.4.~~

Sec. ____ Section 321.281, subsections 1 and 2, Code 1983, are amended to read as follows:

1. A person shall not operate a motor vehicle ~~upon the public highways of~~ in this state in either of the following conditions:

a. While under the influence of an alcoholic beverage, ~~a narcotic, hypnotic,~~ or other drug, or any a combination of such substances.

b. While having ~~thirteen~~ an alcohol concentration of ten hundredths or more ~~of one percent by weight~~

H-5540

Page Two

1 ~~of-alcohol-in-the-blood.~~

2 2. A person ~~convicted~~ who pleads or is found
3 guilty of a violation of this section, ~~upon-conviction~~
4 ~~or-a-plea-of-guilty,-is-guilty-of~~ shall be sentenced
5 upon conviction for:

6 a. A serious misdemeanor for the first offense
7 and shall be fined not less than five hundred dol-
8 lars and imprisoned in the county jail for not less
9 than forty-eight hours, less credit for any time the
10 person was confined in a jail or detention facility
11 following arrest. The court cannot suspend the minimum
12 fine or term of forty-eight hours, notwithstanding
13 section 901.5, subsection 3, and section 907.3, sub-
14 section 2, but the court may accommodate the sentence
15 to the work schedule of the defendant.

16 b. An aggravated misdemeanor for a second offense
17 and shall be fined not less than eight hundred dollars
18 and imprisoned in the county jail or community-based
19 correctional facility not less than seven days, which
20 minimum fine and term cannot be suspended,
21 notwithstanding section 901.5, subsection 3, and
22 section 907.3, subsection 2.

23 c. A class "D" felony for a third ~~offense-and~~
24 ~~each~~ or subsequent offense and shall be fined not
25 less than one thousand dollars and, in addition, shall
26 be imprisoned in the county jail or a community-based
27 correctional facility for a determinate term of not
28 less than thirty nor more than one hundred eighty
29 days as a condition of probation if the court suspends
30 the indeterminate term prescribed by section 902.9,
31 subsection 4.

32 No conviction for, or plea of guilty to, a violation
33 of this section ~~which-occurred-more-than-six-years~~
34 ~~prior-to-the-date-of-violation-charged~~ or a violation
35 of a corresponding statute of any other state that
36 would have been a violation of this section if it
37 had occurred in this state shall be considered in
38 determining that the violation charged is a second,
39 third or subsequent offense if that previous violation
40 occurred more than six years prior to the date of
41 the violation charged.

42 Sec. _____. Section 321.281, subsection 3, Code
43 1983, is amended by striking the subsection and
44 inserting in lieu thereof the following:

45 3. A person shall be punished for only one
46 violation of this section based on each occurrence
47 but either or both of the alternative means described
48 in subsection 1 may be proved at trial.

5579 49 Sec. _____. Section 321.281, subsections 6, 7 and
50 8, Code 1983, are amended to read as follows:

-5540

Page Three

SEN 6. If the court defers judgment pursuant to section
2 907.3 for an offense under this section and the
3 defendant's license has not already been revoked under
4 chapter 321B, the court shall order that the
5 defendant's license to operate a motor vehicle be
6 revoked for a period of not less than thirty days
7 nor more than ninety days, during which time no new
8 license to operate a motor vehicle shall be issued
9 to the defendant. The court shall immediately require
10 the defendant to surrender to it all operator's or
11 chauffeur's licenses held by the defendant which the
12 court shall forward to the department with a copy
13 of the order deferring judgment. The revocation is
14 effective immediately upon entry of the order. A
15 person whose license to operate a motor vehicle is
16 revoked pursuant to this subsection may be issued
17 a temporary restricted driving permit by the department
18 allowing the person to drive ~~to-and-from~~ between the
19 person's home and place of employment and in the
20 person's employment and to attend evaluation, treatment
21 or educational services for alcohol or drug dependency,
22 ~~if the person's license to operate a motor vehicle~~
~~is not subject to revocation under section 321B-13~~
~~for refusal to submit to chemical testing~~ person is
25 otherwise eligible for a temporary restricted driving
26 permit.

27 7. This section does not apply to a person
28 operating a motor vehicle while under the influence
29 of a ~~narcotic, hypnotic, or other~~ drug if such
30 ~~substances were~~ the substance was prescribed for the
31 person and ~~were~~ was taken under the prescription and
32 in accordance with the directions of a medical
33 practitioner as defined in section 155.3, subsection
34 11, if there is no evidence of the consumption of
35 alcohol and the medical practitioner had not directed
36 the person to refrain from operating a motor vehicle.
37 8. In any prosecution under this section, evidence
38 of the results of analysis of a specimen of the
39 defendant's blood, breath, ~~saliva,~~ or urine is
40 admissible upon proof of a proper foundation. In
41 an action in which a violation ~~of~~ by the means
42 described in subsection 1, paragraph "a" of this
43 section is alleged, evidence that there was, at the
44 time, the defendant had an alcohol concentration of
45 ten hundredths or more of one percent by weight of
46 alcohol in the defendant's blood is presumptive
47 evidence that the defendant was under the influence
of an alcoholic beverage."

2. By striking page 4, line 8 through page 5,
50 line 3, and inserting in lieu thereof the following:

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1 "Sec. ____ Section 321.282, Code 1983, is amended
2 to read as follows:

3 321.282 VIOLATIONS. A person whose license or
4 privilege to operate is revoked or denied because
5 the person has been convicted or has pleaded or been
6 found guilty ~~to~~ of a violation of section 321.281
7 or is revoked under subsection 6 of that section who
8 ~~is-found-driving drives or operating-any operates~~
9 a motor vehicle ~~upon-a-highway~~ in this state while
10 the license or privilege is revoked or denied ~~is~~
11 ~~guilty-of~~ commits a serious misdemeanor and,
12 notwithstanding section 907.3, shall be imprisoned
13 in the county jail not less than seven days for a
14 first offense under this section and not less than
15 thirty days for a second or subsequent offense under
16 this section.

17 Sec. ____ Section 321.283, Code 1983, is amended
18 by striking the section and inserting in lieu thereof
19 the following:

20 321.283 TREATMENT OR INSTRUCTION FOR DRINKING
21 DRIVERS.

22 1. As used in this section, unless the context
23 otherwise requires:

24 a. "Course for drinking drivers" means an approved
25 course designed to inform the offender about drinking
26 and driving and encourage the offender to assess the
27 driver's drinking and driving behavior in order to
28 select practical alternatives.

29 b. "Satisfactory completion of a course" means
30 receipt of a grade of "C" or "2.0" or better from
31 the course instructor at the completion of the course.

32 2. After a conviction for, or a plea of guilty
33 of, a violation of section 321.281, the court in
34 addition to its power to commit the defendant for
35 treatment of alcoholism under section 321.281, may
36 in lieu of, or prior to or after the pronouncement
37 of sentence for any subsequent offense, order the
38 defendant to submit to evaluation, treatment or
39 rehabilitation services under section 125.33 at the
40 defendant's expense and to furnish evidence of
41 successful completion. A copy of the order shall
42 be forwarded to the department.

43 3. After a conviction for a violation of section
44 321.281, the court may refer the defendant for
45 ~~5540~~ treatment at a facility as defined in section 125.1
46 to 125.43 and designated by the Iowa department of
47 substance abuse. The court may prescribe the length
48 of time for treatment or it may be left to the discre-
49 tion of the facility to which the defendant was
50 referred. A person referred under this section who

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1 does not have sufficient income or estate to pay the
2 costs of the treatment in whole or in part is a state
3 patient and the costs of the treatment shall be paid
4 under section 125.44.

5 4. A person whose operating privileges have been
6 revoked under chapter 321B or for a conviction of
7 a violation of section 321.281 and who has had no
8 previous revocation under section 321.209, subsection
9 2, section 321.281, or chapter 321B shall not be
10 eligible for reinstatement of operating privileges
11 until the person has filed with the department proof
12 of satisfactory completion of a course for drinking
13 drivers or completion of evaluation, treatment or
14 rehabilitation services under section 125.33 and has
15 filed proof of compliance with chapter 321A.

16 5. A person whose operating privileges have been
17 revoked under chapter 321B or for a conviction of
18 a violation of section 321.281 and who has had one
19 or more previous revocations under section 321.209,
20 subsection 2, section 321.281, or chapter 321B shall
21 not be eligible for reinstatement of operating
22 privileges until the person has filed with the
23 department proof of completion of a substance abuse
24 evaluation and, if recommended by the evaluation,
25 a course of treatment or rehabilitation under section
26 125.33 and has filed proof of compliance with chapter
27 321A.

28 6. A person who is attending evaluation, treatment
29 or rehabilitation services voluntarily or under a
30 court order may be issued a temporary restricted
31 driving permit by the department for driving between
32 the person's home and place of employment, in the
33 person's employment, and to and from the location
34 of the evaluation, treatment or rehabilitation services
35 if the person has complied with chapter 321A. The
36 fee for a temporary restricted driving permit issued
37 under this subsection is ten dollars. The permit
38 must be in the permittee's immediate possession while
39 the permittee is operating a motor vehicle and shall
40 be invalid when the permittee is issued a drivers
41 license. The temporary restricted driving permit
42 shall be canceled upon conviction of a moving traffic
43 violation. A violation of a restriction of a permit
44 issued under this subsection is a simple misdemeanor.

45 7. Successful completion of a course for drinking
46 drivers or evaluation, treatment or rehabilitation
47 services under this section does not reverse or reduce
48 the length of a revocation or denial of operating
49 privileges for a violation of section 321.281 or under
50 chapter 321B.

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1 8. The course for drinking drivers shall be offered
2 on a regular basis at each area school as defined
3 in section 280A.2. Enrollment in the courses is not
4 limited to persons required to attend the course and
5 any person may enroll in and attend a course for
6 drinking drivers.

7 9. The department of public instruction shall
8 establish reasonable fees to defray the expense of
9 obtaining classroom space, instructor salaries, and
10 class materials for the courses for drinking drivers.
11 No person shall be denied enrollment in a course by
12 reason of indigency.

13 10. No employer shall discharge a person from
14 employment solely for the reason that the person is
15 absent from work in order to attend a course for
16 drinking drivers. An employer who violates this
17 section shall be liable for triple damages occasioned
18 by the unlawful discharge from employment.

19 11. The department of public instruction shall
20 prepare a list of the locations where the course for
21 drinking drivers is offered, the dates and times the
22 course is taught, the procedure for enrollment, and
23 the schedule of course fees. The list shall be kept
24 current and shall be provided to the department and
25 to each district court.

26 12. The department of public instruction shall
27 maintain enrollment, attendance, successful and
28 nonsuccessful completion data on the persons who have
29 enrolled in a course for drinking drivers. This data
30 shall be forwarded to the department.

31 Sec. _____. Section 321B.1, Code 1983, is amended
32 to read as follows:

33 321B.1 DECLARATION OF POLICY. The general assembly
34 declares that this chapter is necessary to aid the
35 enforcement of laws prohibiting operation of a motor
36 vehicle while under the influence of an alcoholic
37 beverage, ~~a narcotic, hypnotic,~~ or other drug or any
38 a combination of such substances, or while having
39 an alcohol concentration of a certain amount of alcohol
40 ~~in the blood~~ or more.

41 Sec. _____. Section 321B.2, unnumbered paragraph
42 2, Code 1983, is amended to read as follows:

43 As used in this chapter and sections 29B.106,
44 ~~321.209, and 321.281, 321.494 and 690.2~~ the words
45 "alcoholic beverage" include and alcohol, ~~wine,~~
46 ~~spirits, beer, or any other beverage which contains~~
47 ~~ethyl alcohol and is fit for human consumption~~
48 concentration means as defined in section 321.1.

49 Sec. _____. Section 321B.4, subsection 1, unnumbered
50 paragraph 1, Code 1983, is amended to read as follows:

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1 Any person who operates a motor vehicle in this
2 state ~~upon-a-public-highway~~ under circumstances which
3 give reasonable grounds to believe that the person
4 ~~to-have~~ has been operating a motor vehicle in violation
5 of section 321.281, is deemed to have given consent
6 to the withdrawal of specimens of the person's blood,
7 breath, ~~saliva~~, or urine, and to a chemical test or
8 tests of the specimens for the purpose of determining
9 ~~the alcoholic-content-of-the-blood~~ alcohol
10 concentration or presence of drugs, subject to this
11 section. The withdrawal of the body substances and
12 the test or tests shall be administered at the written
13 request of a peace officer having reasonable grounds
14 to believe that the person ~~to-have-been~~ was operating
15 a motor vehicle in violation of section 321.281, and
16 if any of the following conditions exist:

17 Sec. _____. Section 321B.4, subsection 1, paragraph
18 d, Code 1983, is amended to read as follows:

19 d. The preliminary breath screening test was
20 administered and it ~~recorded~~ indicated an alcohol
21 concentration of ten hundredths or more of one-percent
22 by-weight-of-alcohol-in-the-blood.

23 Sec. _____. Section 321B.4, subsection 2, Code 1983,
24 is amended to read as follows:

25 2. The peace officer shall determine which of
26 the ~~four~~ three substances, breath, blood, ~~saliva~~,
27 or urine, shall be tested. Refusal to submit to a
28 chemical test of urine, ~~saliva~~ or breath is deemed
29 a refusal to submit, and ~~section~~ sections 321B.13
30 applies and 321B.29 apply. A refusal to submit to
31 a chemical test of blood is not deemed a refusal to
32 submit, but, in that case, the peace officer shall
33 then determine which ~~one~~ of the other ~~three~~ substances
34 shall be tested and shall offer the test. If the
35 peace officer fails to provide a test within two hours
36 after the preliminary screening test ~~is~~ was
37 administered or refused or the arrest ~~is~~ was made,
38 whichever ~~occurs~~ occurred first, a test is not
39 required, and there shall be no revocation under
40 section 321B.13.

41 Sec. _____. Chapter 321B, Code 1983, is amended
42 by adding the following new section:

43 NEW SECTION. 321B.5 URINE TEST REQUIRED. If
44 there are reasonable grounds to believe that the
45 person was operating a motor vehicle while under the
46 influence of a drug other than or in addition to
47 alcohol and which may not be readily detected by a
48 blood or breath test, the peace officer may request
49 a urine specimen for testing even after a blood or
50 breath specimen has been withdrawn. If the person

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1 refuses to submit to a request under this section,
2 sections 321B.13 and 321B.29 apply.

3 Sec. _____. Section 321B.12, Code 1983, is amended
4 by striking the section and inserting in lieu thereof
5 the following:

6 321B.12 STATEMENT OF OFFICER. A person who has
7 been requested to submit to a chemical test shall
8 be advised by a peace officer of the following:

9 1. If the person refuses to submit to the test,
10 the person's license or operating privilege will be
11 revoked by the department for the applicable period
12 under section 321B.13.

13 2. If the person submits to the test and the
14 results indicate an alcohol concentration of ten
15 hundredths or more, the person's license or operating
16 privilege will be revoked by the department for the
17 applicable period under section 321B.16.

18 This section does not apply in any case involving
19 a person described in section 321B.11.

20 Sec. _____. Section 321B.13, Code 1983, is amended
21 to read as follows:

22 321B.13 REFUSAL TO SUBMIT. If a person refuses
23 to submit to the chemical testing, a test shall not
24 be given, but ~~the department~~, upon ~~the receipt of~~
25 ~~a sworn report of certification by~~ the peace officer
26 that the officer had reasonable grounds to believe
27 ~~that the person to have been was~~ operating a motor
28 vehicle in violation of section 321.281, that ~~specified~~
29 there existed one or more of the necessary conditions
30 existed for chemical testing pursuant to described
31 in section 321B.4, subsection 1, and that the person
32 had refused to submit to the chemical testing, the
33 department shall revoke the person's license or permit
34 to drive and any nonresident operating privilege for
35 a period of one hundred-eighty-days year if the person
36 has no previous revocation under section 321.209,
37 subsection 2, section 321.281, or this chapter, one
38 year-if-the-person-has-one-previous-revocation-under
39 those-provisions, and five-hundred-forty-days two
40 years if the person has two one or more previous
41 revocations under those provisions, or-if. If the
42 person is a resident without a license or permit to
43 operate a motor vehicle in this state, the department
44 shall deny ~~to~~ the person the issuance of a license
45 or permit for the same period a license or permit
46 would be ~~have been~~ revoked, subject to review as
47 provided in this chapter.

48 PARAGRAPH DIVIDED. The effective date of revocation
49 shall be twenty days after the department has mailed
50 notice of revocation to the person by certified mail

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1 ~~or, on behalf of the department, a.~~ The peace officer
2 ~~offering or directing the administration of a~~ who
3 requested the chemical test may, on behalf of the
4 department, serve immediate notice of intention to
5 ~~revoke and of~~ revocation on a person who refuses to
6 permit chemical testing. If the peace officer serves
7 that immediate notice, the peace officer shall take
8 the person's Iowa license or permit of the driver,
9 if any, and issue a temporary license effective valid
10 for only twenty days. The peace officer shall
11 immediately send the person's license to the department
12 along with ~~an affidavit~~ the officer's certificate
13 indicating the person's refusal to submit to chemical
14 testing.

15 Sec. ____ . Section 321B.14, subsection 4, Code
16 1983, is amended to read as follows:

17 4. Search warrants issued under this section shall
18 authorize and direct peace officers to secure the
19 withdrawal of ~~blood specimens by medical personnel~~
20 under section 321B.15. Reasonable care shall be
21 exercised to ensure the health and safety of the
22 persons from whom specimens are withdrawn in execution
23 of the warrants. If a peace officer elects to seek
24 withdrawal of a blood specimen but the person from
25 whom a the specimen is to be withdrawn objects to
26 the withdrawal of blood, the officer may still secure
27 a urine specimen at that time if possible or, if the
28 person is capable of giving a specimen of breath,
29 and a direct breath testing instrument is readily
30 available, the warrant may be executed by the
31 withdrawal of a breath specimen of breath for chemical
32 testing.

33 Sec. ____ . Section 321B.15, Code 1983, is amended
34 to read as follows:

35 321B.15 TAKING SAMPLE FOR TEST. Only a licensed
36 physician, physician's assistant as defined in section
37 148C.1, subsection 6, medical technologist or
38 registered nurse, acting at the request of a peace
39 officer, may withdraw ~~body substances~~ a specimen of
40 blood for the purpose of determining the alcoholic
41 ~~or drug content of the person's blood~~ alcohol
42 concentration or the presence of drugs. However,
43 any peace officer, using devices and methods approved
44 by the commissioner of public safety, may take a
45 specimen of a person's breath or urine for the purpose
46 of determining the ~~alcoholic or drug content of the~~
47 person's blood alcohol concentration or the presence
48 of drugs. Only new, originally factory wrapped,
49 disposable syringes and needles, kept under strictly
50 sanitary and sterile conditions shall be used for

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1 drawing blood.

2 PARAGRAPH DIVIDED. The person may have an
3 independent chemical test or tests administered by
4 a person of the person's own choosing and at the
5 person's own expense in addition to any administered
6 at the direction of a peace officer. The failure
7 or inability of the person to obtain an independent
8 chemical test or tests does not preclude the admission
9 in of evidence of the results of the test or tests
10 taken administered at the direction of the peace
11 officer. Upon the request of the person who is tested,
12 the results of the test or tests taken administered
13 at the direction of the peace officer shall be made
14 available to the person.

15 Sec. _____. Section 321B.16, Code 1983, is amended
16 to read as follows:

17 321B.16 TEST RESULT REVOCATION. Upon certification
18 by the peace officer that there existed reasonable
19 grounds to believe that the person ~~to have~~ had been
20 operating a motor vehicle in violation of section
21 321.281, that there existed one or more of the
22 necessary conditions for chemical testing described
23 in section 321B.4, subsection 1, and that the person
24 submitted to chemical testing and the test results
25 ~~indicate~~ indicated an alcohol concentration of ten
26 hundredths or more ~~of one percent by weight of alcohol~~
27 ~~in the person's blood~~, the department shall revoke
28 the person's license or permit to drive or nonresident
29 operating privilege for a period of one hundred ~~twenty~~
30 ~~eighty~~ days if the person has had no revocation within
31 the previous six years under section 321.209,
32 subsection 2, section 321.281 or this chapter, ~~two~~
33 ~~hundred-forty-days-if-the-person-has-one-previous~~
34 ~~revocation-under-these-provisions~~, and one year if
35 the person has ~~two~~ had one or more previous revocations
36 under those provisions arising from separate
37 occurrences.

38 The effective date of the revocation shall be
39 twenty days after the department has mailed notice
40 of revocation to the person by certified mail ~~or~~,
41 ~~on behalf of the department~~, -a. The peace officer
42 ~~offering a chemical test or directing~~ who requested
43 or directed the administration of a the chemical test
44 may, on behalf of the department, serve immediate
45 notice ~~of intention to revoke and~~ of revocation on
46 a person ~~when the person's~~ whose test results ~~indicate~~
47 indicated an alcohol concentration of ten hundredths
48 or more ~~of one percent by weight of alcohol in the~~
49 ~~blood~~.

50 If the peace officer serves that immediate notice,

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1 the peace officer shall take the person's Iowa license
2 or permit ~~of-the-driver~~, if any, and issue a temporary
3 license valid only for twenty days. The peace officer
4 shall immediately send the person's driver's license
5 to the department along with an ~~affidavit-stating~~
6 the officer's certificate indicating that the test
7 results ~~indicate~~ indicated an alcohol concentration
8 of ten hundredths ~~of-one-percent~~ or more ~~by-weight~~
9 ~~of-alcohol-in-the-person's-blood~~.

10 The Not less than thirty days after the effective
11 date of a revocation under this section, the department
12 may, on application, issue a temporary restricted
13 license to a the person whose license has been revoked
14 ~~under-this-section~~ when the person's regular employment
15 includes the operation of a motor vehicle or ~~who the~~
16 person cannot perform his or her regular occupation
17 without the use of a motor vehicle, or when the
18 person's use of a motor vehicle is necessary to attend
19 evaluation, treatment or educational services for
20 alcohol or drug dependency, but the person shall not
21 operate a vehicle for pleasure while holding a
22 restricted license. However, this paragraph does
23 not apply to a person whose license is suspended or
24 revoked for another reason.

25 Sec. ____ Section 321B.26, Code 1983, is amended
26 to read as follows:

27 321B.26 HEARING. Upon the written request of
28 a person whose privilege to drive has been revoked
29 or denied, or who has been issued a twenty-day license
30 pursuant to section 321B.13 or section 321B.16, the
31 department shall grant the person an opportunity to
32 be heard within twenty days after the receipt of the
33 request, but the request must be made within ten days
34 of the effective date of revocation or denial of
35 driving privileges or the issuance of a temporary
36 ~~permit~~ license. A revocation or denial of driving
37 privileges under this chapter shall not be stayed
38 upon a request for a hearing but the department may
39 upon application grant a stay of the balance of the
40 revocation if the hearing has not been held within
41 sixty days. The hearing shall be before the department
42 in the county where the alleged events occurred,
43 unless the director and the person agree that the
44 hearing may be held in some other county. The hearing
45 may be recorded and its scope shall ~~ever~~ be limited
46 to the issues of whether a peace officer had reasonable
47 grounds to believe that the person ~~to-have-been was~~
48 operating a motor vehicle in violation of section
49 321.281, whether and either of the following:

50 a. Whether the person refused to submit to the

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1 test or tests.

2 b. Whether a test was administered and the test
3 results if a person consented to a test and whether
4 the person should be issued a temporary restricted
5 license indicated an alcohol concentration of ten
6 hundredths or more.

7 PARAGRAPH DIVIDED. The department shall order
8 that the revocation or denial be either rescinded
9 or sustained.

10 Sec. ____ Section 321B.28, Code 1983, is amended
11 to read as follows:

12 321B.28 EVIDENCE IN ANY ACTION. Upon the trial
13 of any civil or criminal action or proceeding arising
14 out of acts alleged to have been committed by any
15 a person while operating a motor vehicle in violation
16 of section 321.281, evidence of the ~~amount of~~ alcohol
17 concentration or the presence of drugs in the person's
18 blood body substances at the time of the act alleged
19 as shown by a chemical analysis of the person's blood,
20 breath, saliva or urine is admissible. If it is
21 established at trial that an analysis of a breath
22 specimen was performed by use of a device and methods
23 approved by the commissioner of public safety, it
24 is presumed that the test results are valid and no
25 further foundation is necessary for introduction
26 of the evidence.

27 Sec. ____ Chapter 321B, Code 1983, is amended
28 by adding the following new section:

29 NEW SECTION. 321B.30 YOUTHFUL OFFENDERS--
30 PROVISIONAL LICENSE.

31 1. A license or permit to operate a motor vehicle
32 in this state held by a person less than twenty-one
33 years of age is provisional in that the license or
34 permit is subject to revocation or denial under the
35 special provisions of this section.

36 2. For purposes of this section, a person less
37 than twenty-one years of age who operates a motor
38 vehicle in this state after consuming an alcoholic
39 beverage is deemed to have given consent to the
40 withdrawal of specimens of the person's blood, breath
41 or urine for testing to determine the alcohol
42 concentration.

43 3. The body substances shall be withdrawn and
44 the test or tests shall be administered at the written
45 request of a peace officer having reasonable grounds
46 to believe that the person operated a motor vehicle
47 in this state after consuming an alcoholic beverage.

48 4. Section 321B.4, subsection 2, section 321B.11,
49 and section 321B.15 apply to the withdrawal of body
50 substances and chemical testing under this section.

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1 5. Before requiring a person to elect whether
2 to submit to a chemical test under this section, a
3 peace officer shall advise the person of the following:

4 a. If the person is less than nineteen years of
5 age and the person refuses to submit to the test or
6 the person submits to the test and the results indicate
7 an alcohol concentration of two hundredths or more,
8 the person's license or permit to drive or any
9 nonresident operating privilege will be revoked or
10 denied by the department until the person is twenty-
11 one years of age.

12 b. If the person is nineteen or twenty years of
13 age and the person refuses to submit to the test or
14 the person submits to the test and the results indicate
15 an alcohol concentration of ten hundredths or more,
16 the person's license or permit to drive or any
17 nonresident operating privilege will be revoked or
18 denied by the department for the applicable period
19 prescribed by this section.

20 6. If a person less than nineteen years of age
21 refuses to submit to chemical testing under this
22 section, a test shall not be administered but the
23 department, upon receipt of the officer's certificate
24 under subsection 10, shall revoke the person's license
25 or permit to drive or any nonresident operating
26 privilege until the person is twenty-one years of
27 age.

28 7. If a person less than nineteen years of age
29 submits to a test under this section, the department,
30 upon receipt of the officer's certificate under
31 subsection 10, that the alcohol concentration was
32 two hundredths or more shall revoke the person's
33 license or permit to drive or any nonresident operating
34 privilege until age twenty-one.

35 8. If a person nineteen or twenty years of age
36 refuses to submit to chemical testing under this
37 section, a test shall not be administered but the
38 department, upon receipt of the officer's certificate
39 under subsection 10, shall revoke the person's license
40 or permit to drive or nonresident operating for two
41 years.

42 9. If a person nineteen or twenty years of age
43 submits to a test under this section, the department,
44 upon receipt of the officer's certificate under
45 subsection 10 that the alcohol concentration was ten
46 hundredths of a percent or more, shall revoke the
47 person's license or permit to drive or nonresident
48 operating privilege until age twenty-one or for one
49 year, whichever is greater.

50 10. The peace officer who requested or administered

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1 the chemical test or tests shall serve immediate
2 notice of revocation on a person subject to revocation
3 under this section and shall take the person's Iowa
4 license or permit, if any. The peace officer shall
5 give the person a temporary license or permit valid
6 for only twenty days if the person already had a valid
7 Iowa license or permit at the time of the violation.
8 The peace officer shall promptly forward the person's
9 license or permit to the department along with the
10 officer's certificate indicating the grounds for
11 chemical testing under this section, the person's
12 response to the request for testing, and the results
13 of the chemical test if one was administered.
14 11. Upon the written request of a person whose
15 privilege to drive has been revoked or denied under
16 this section, the department shall set the matter
17 for hearing as soon as possible but the request must
18 be made within ten days after the service of notice
19 of revocation.
20 The scope of the hearing shall be limited to the
21 following in determining the validity of the revocation
22 or denial:
23 a. Whether the necessary grounds existed for
24 chemical testing under this section.
25 b. Whether the person refused to submit to the
26 chemical test or tests that were requested.
27 c. Whether the chemical test or tests indicated
28 the presence of alcohol in sufficient concentration
29 to cause a revocation or denial of driving privileges
30 under this section.
31 12. Not less than thirty days after the effective
32 date of revocation or denial of driving privileges
33 under this section, the department may, if the person
34 submitted to chemical testing and the person's driving
35 privileges are not subject to suspension or revocation
36 for any other reason, issue the person a temporary
37 restricted driving license or permit if the depart-
38 ment determines that the revocation or denial causes
39 an undue hardship for the person's family and if all
40 of the following have been received by the department:
41 a. An affidavit of need from the person.
42 b. An affidavit from a parent, guardian, or spouse
43 describing the hardship created.
44 c. An affidavit from the person's employer or
45 the principal or superintendent of the school which
46 the person attends verifying the hardship.
47 d. Evidence of completion of a substance abuse
48 evaluation and, if indicated, substantial completion
49 of a course of treatment or rehabilitation.
50 e. Evidence of satisfactory compliance with section

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1 321.283 if the person was required to attend a course
2 for drinking drivers.

3 A person may not operate a motor vehicle for
4 pleasure while holding a temporary restricted license
5 or permit received after this section.

6 13. This section does not affect the provisions
7 of this chapter which relate to investigation or
8 prosecution of violations of section 321.281 nor does
9 it limit the jurisdiction and authority of the juvenile
10 courts regarding violations of that section.

11 Sec. _____. Section 321B.36, Code 1983, is amended
12 to read as follows:

13 321B.36 OTHER EVIDENCE. ~~The provisions of this~~
14 ~~This chapter shall does not be construed as limiting~~
15 limit the introduction of any other competent evidence
16 bearing on the question of whether the person was
17 under the influence of an alcoholic beverage or other
18 drugs.

19 Sec. _____. Section 321B.38, Code 1983, is amended
20 to read as follows:

21 321B.38 DRIVING WHILE LICENSE DENIED OR REVOKED.
22 Any A person whose license or driving privilege has
23 been denied or revoked ~~as provided in~~ under this
24 chapter and who drives any a motor vehicle upon the
25 highways of in this state while the license or
26 privilege is denied or revoked ~~is guilty of~~ commits
27 a serious misdemeanor and, notwithstanding section
28 907.3, shall be imprisoned in the county jail not
29 less than seven days for a first offense under this
30 section and not less than thirty days for a second
31 or subsequent offense under this section. The In
32 addition, the department, upon receiving the record
33 of the conviction of any a person under this section
34 upon a charge of driving a motor vehicle while the
35 license of the person was revoked or denied, shall
36 extend the period of revocation or denial for an
37 additional like period, and the department shall not
38 issue a new license during the additional period.

39 Sec. _____. Section 602.6405, Code Supplement 1983,
40 is amended by striking the section and inserting in
41 lieu thereof the following:

42 602.6405 JURISDICTION--PROCEDURE.

43 1. Magistrates have jurisdiction as follows:

44 a. Of simple misdemeanors, including traffic and
45 ordinance violations.

46 b. Of preliminary hearings.

47 c. Of search warrant proceedings.

48 d. Of small claims.

49 e. To exercise the powers specified in sections
50 644.2 and 644.12.

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1 f. To hear complaints, issue warrants, order
2 arrests, make commitments, and take bail.
3 g. Of first offense violations of section 321.281
4 to the extent that they may approve trial informations,
5 conduct arraignments, accept guilty pleas from
6 defendants represented by legal counsel, and sentence
7 persons whose guilty pleas they accept.
8 h. Of violations of sections 321.218, 321.282,
9 321A.32 and 321B.38 to the extent that they may approve
10 trial informations, conduct arraignments, accept
11 guilty pleas, hear bench trials, and sentence persons.
12 2. The criminal procedure before magistrates is
13 as provided in chapters 804, 806, 808, 811, 820 and
14 821 and the rules of criminal procedure applicable
15 to the offenses of which they exercise jurisdiction.
16 The civil procedure before magistrates shall be as
17 provided in chapters 631 and 648.
18 Sec. _____. Section 690.2, Code 1983, is amended
19 to read as follows:
20 690.2 FINGER AND PALM PRINTS--DUTY OF SHERIFF
21 AND CHIEF OF POLICE. It shall be the duty of the
22 sheriff of every county, and the chief of police of
23 each city ~~regardless of the form of government thereof~~
24 and having a population of ten thousand or ~~over~~ more,
25 to take the fingerprints of all persons held either
26 for investigation, ~~for~~ or the commission of a felony,
27 as a fugitive from justice, or for bootlegging, the
28 maintenance of an intoxicating liquor nuisance,
29 manufacturing intoxicating liquor, operating a motor
30 vehicle ~~while under the influence of an alcoholic~~
31 beverage in violation of section 321.281 or for illegal
32 transportation of intoxicating liquor, and to take
33 the fingerprints of all unidentified dead bodies in
34 their respective jurisdictions, and to forward ~~such~~
35 the fingerprint records on ~~such~~ forms and in ~~such~~
36 a manner as may be prescribed by the commissioner
37 of public safety, within forty-eight hours after the
38 ~~same fingerprints~~ fingerprints are taken, to the ~~bureau~~ division
39 of criminal investigation. If the fingerprints of
40 any person are taken under ~~the provisions hereof~~ this
41 section whose fingerprints are not already on file,
42 and ~~said~~ the person is not convicted of any offense,
43 ~~then said~~ the fingerprint records shall be destroyed
44 by any officer having them. In addition to ~~the taking~~
45 fingerprints as herein provided any such under this
46 section, an officer may also take the person's palm
47 prints of any such person."

H-5540 FILED MARCH 8, 1984 BY McKEAN of Jones

Adopted as amended by 5542, 5579, 5588 3/9 (p. 925)
HOUSE FILE 2486

H-5518

1 Amend House File 2486 as follows:
2 1. Page 1, line 12, by inserting after the word
3 "suspended" the words "or deferred".

H-5518 FILED

MARCH 8, 1984

Adopted 3/9 (p. 898)

Placed out of order (p. 925)

BY CARTER of Henry

HOUSE FILE 2486

H-5536

- 1 Amend House File 2486 as follows:
- 2 1. Page 4, by inserting after line 22 the
- 3 following:
- 4 "Sec. ____ Section 321B.28, Code 1983, is amended
- 5 to read as follows:
- 6 321B.28 EVIDENCE IN ANY ACTION. Upon the trial
- 7 of any civil or criminal action or proceeding arising
- 8 out of acts alleged to have been committed by any
- 9 a person while operating a motor vehicle in violation
- 10 of section 321.281, evidence of the ~~amount-of~~ alcohol
- 11 concentration or the presence of drugs in the person's
- 12 blood body substances at the time of the act alleged
- 13 as shown by a chemical analysis of the person's blood,
- 14 breath, saliva or urine is admissible. If it is
- 15 established at trial that an analysis of a breath
- 16 specimen was performed by use of a properly certified
- 17 device and methods approved by the commissioner of
- 18 public safety, no further foundation is necessary
- 19 for introduction of the evidence."
- 20 2. By renumbering as required by this amendment.

H-5536 FILED MARCH 8, 1984 BY TABOR of Jackson

Adopted 3/9 (p. 918)

Placed out of order (p. 925)

HOUSE FILE 2486

H-5537

- 1 Amend House File 2486 as follows:
- 2 1. Page 4, by inserting before line 8 the
- 3 following:
- 4 "Sec. ____ Section 321.281, Code 1983, is amended
- 5 by adding the following new subsection:
- 6 NEW SUBSECTION. A person whose license to operate
- 7 a motor vehicle is revoked because the person has
- 8 been convicted or has pleaded guilty to a violation
- 9 of section 321.281 or is revoked under subsection
- 10 6 of that section shall pay a fifty dollar fee in
- 11 addition to the reinstatement fee provided in section
- 12 321.191 upon an application by the person for
- 13 reinstatement of the person's license to operate a
- 14 motor vehicle."

H-5537 FILED MARCH 8, 1984 BY JAY of Appanoose

Adopted as amended by 5536
3/9 (p. 926)

HOUSE FILE 2486

H-5542

- 1 Amend amendment H-5540 to House File 2486 as
- 2 follows:
- 3 1. Page 2, line 34, by inserting after the words
- 4 "date-of" the word "the".
- 5 2. Page 4, line 45, by striking the word "section"
- 6 and inserting in lieu thereof the word "sections".
- 7 3. Page 8, line 24, by striking the word and comma
- 8 "department," and inserting in lieu thereof the following:
- 9 "department7".
- 10 4. Page 13, line 40, by inserting after the word
- 11 "operating" the word "privilege".
- 12 5. Page 16, line 6, by striking the word "leal" and
- 13 inserting in lieu thereof the word "legal".

H-5542 FILED MARCH 9, 1984 BY McKEAN of Jones

ADOPTED (p. 922)

Line 10 thru 13 placed out of order (p. 925)

HOUSE FILE 2486

H-5543

- 1 Amend House File 2486 as follows:
- 2 1. Page 1, by inserting before line 1 the
- 3 following:
- 4 "Section 1. Section 123.3, subsection 33, Code
- 5 1983, is amended to read as follows:
- 6 33. "Legal age" means nineteen twenty-one years
- 7 of age or more.
- 8 Sec. 2. Section 1 of this Act does not apply to
- 9 persons born on or before June 30, 1965."
- 10 2. By renumbering as required by this amendment.

BY VAN CAMP of Scott
HERMANN of Scott
HAVERLAND of Polk
STROMER of Hancock
HOFFMANN-BRIGHT of Muscatine
HARBOR of Mills
RENSINK of Sioux
MILLER of Woodbury
MC KEAN of Jones
STUELAND of Clinton
MC INTEE of Black Hawk
RENKEN of Grundy

ANDERSON of Audubon
GRANDIA of Marion
COOPER of Lucas
CARPENTER of Polk
BLACK of Jasper
HANDORF of Marshall
ROYER of Page
PAULIN of Plymouth
MAULSBY of Calhoun
COREY of Louisa
CLARK of Cerro Gordo

H-5543 FILED MARCH 9, 1984

MOTION TO SUSPEND RULES LOST (p. 927)

HOUSE FILE 2486

H-5576

1 Amend House amendment H-5529 to House File 2486
2 as follows:
3 1. Page 1, line 5, by inserting after the word
4 "of" the words "or adjudicated under chapter 232,
5 division II for".

H-5576 FILED MARCH 9, 1984 BY OSTERBERG of Linn
ADOPTED (p. 919)

HOUSE FILE 2486

H-5579

1 Amend House amendment H-5540 to House File 2486
2 as follows:
3 1. Page 2, by striking lines 49 and 50 and
4 inserting in lieu thereof the following:
5 "Sec. ____ Section 321.281, subsection 6, Code
6 1983, is amended by striking the subsection.
7 Sec. ____ Section 321.281, subsections 7 and 8,
8 Code 1983, are amended to read as follows:"
9 2. Page 3, by striking lines 1 through 26.
10 3. Page 16, by inserting after line 47 the
11 following:
12 "Sec. ____ Section 907.3, subsection 1, paragraph
13 g, Code 1983, is amended to read as follows:
14 g. The offense is a violation of section 321.281
15 ~~and, within the previous six years, the person has~~
16 ~~been convicted of a violation of that section or the~~
17 ~~person's driver's license has been revoked pursuant~~
18 ~~to that section or chapter 321B "~~

H-5579 FILED MARCH 9, 1984 BY MC INTEE of Black Hawk
ADOPTED (p. 923)

HOUSE FILE 2486

H-5553

1 Amend House amendment H-5528 to House File 2486
2 as follows:
3 1. Page 1, by striking lines 2 through 11, and
4 inserting in lieu thereof the following:
5 "Sec. ____ . Section 321.281, subsection 2,
6 paragraphs b and c, Code 1983, are amended to read
7 as follows:
8 b. An aggravated misdemeanor for a second offense
9 and shall be imprisoned in the county jail or
10 community-based correctional facility not less than
11 seven thirty days, which minimum term cannot be
12 suspended notwithstanding section 901.5, subsection
13 3 and section 907.3, subsection 2.
14 c. A class "D" felony for a third offense and
15 each subsequent offense. Upon a third or subsequent
16 offense, the department of public safety may impound
17 the motor vehicle used by the offender during the
18 offense, if owned by the offender, and sell the motor
19 vehicle at public auction with the proceeds of the
20 sale to be paid to the treasurer of state for deposit
21 in the general fund."

H-5553 FILED MARCH 9, 1984 BY SWARTZ of Marshall
LOST (p. 899)

HOUSE FILE 2486

H-5558

1 Amend amendment H-5540 to House File 2486 as
2 follows:
3 1. Page 9, by inserting after line 14 the
4 following:
5 "The department may, on application, issue a
6 temporary restricted license to a person whose license
7 has been revoked under this section and who has entered
8 a plea of guilty to a charge under section 321.281
9 when the person's regular employment includes the
10 operation of a motor vehicle or who cannot perform
11 the person's regular occupation without the use of
12 a motor vehicle, or when the person's use of a motor
13 vehicle is necessary to attend evaluation, treatment
14 or educational services for alcohol or drug dependency,
15 but the person shall not operate a vehicle for pleasure
16 while holding a restricted license. However, this
17 paragraph does not apply to a person whose license
18 is suspended or revoked for another reason."

BY SCHROEDER of Pottawattamie
DODERER of Johnson
JAY of Appanoose

H-5558 FILED MARCH 9, 1984
ADOPTED (p. 925)

HOUSE FILE 2486

H-5588

- 1 Amend amendment H-5540 to House File 2486 as
- 2 follows:
- 3 1. By striking page 12, line 27 through page 15,
- 4 line 10.

H-5588 FILED MARCH 9, 1984 BY MC KEAN of Jones
ADOPTED (p. 925)

HOUSE FILE 2486

H-5584

- 1 Amend House amendment H-5537 to House File 2486
- 2 as follows:
- 3 1. Page 1, by inserting before line 2 the
- 4 following:
- 5 "1. Page 1, by inserting before line 1 the
- 6 following:
- 7 "Sec. ____ . Section 321.191, unnumbered paragraph
- 8 2, Code 1983, is amended to read as follows:
- 9 There shall be a fee of twenty fifty dollars for
- 10 reinstatement of a chauffeur's license or operator's
- 11 license which is, after notice and opportunity for
- 12 hearing, suspended or revoked pursuant to sections
- 13 321.193, 321.209 and 321.210, except subsection 4
- 14 thereof, 321.513, 321.560, 321A.6, and chapter 321B.
- 15 ~~The twenty-dollar fee shall be collected only if the~~
- 16 ~~person whose license was suspended or revoked was~~
- 17 ~~served personally with notice --- if the person whose~~
- 18 ~~license was suspended or revoked was served notice~~
- 19 ~~by certified mail, the reinstatement fee shall be~~
- 20 ~~ten dollars."~~

H-5584 FILED MARCH 9, 1984 BY CONNORS of Polk
ADOPTED (p. 925)

HOUSE FILE 2486

H-5593

- 1 Amend House File 2486 as follows:
- 2 1. Title page by striking lines 1 through 19 and
- 3 inserting in lieu thereof the following: "An Act to
- 4 provide a deterrent to persons operating a motor
- 5 vehicle while under the influence of an alcoholic
- 6 beverage or other drug, providing instruction and
- 7 treatment for drinking drivers, declaring certain acts
- 8 illegal and establishing penalties."

H-5593 FILED MARCH 9, 1984 BY JAY of Appanoose
ADOPTED BY UNANIMOUS CONSENT (p. 927)

HOUSE FILE 2486

H-5577

1 Amend House amendment H-5540 to House File 2486
2 as follows:
3 1. By striking page 1, line 2 through page 16,
4 line 47, and inserting in lieu thereof the following:
5 "1. Page 1, by inserting before line 1 the
6 following:
7 "Section 1. Section 321.1, Code Supplement 1983,
8 is amended by adding the following new subsections:
9 NEW SUBSECTION. "Alcohol concentration" means
10 the number of grams of alcohol per any of the
11 following:
12 a. One hundred milliliters of blood.
13 b. Two hundred ten liters of breath.
14 c. Sixty-seven milliliters of urine.
15 NEW SUBSECTION. "Alcoholic beverage" includes
16 alcohol, wine, spirits, beer, or any other beverage
17 which contains ethyl alcohol and is fit for human
18 consumption."
19 2. Page 1, by inserting after line 16, the
20 following:
21 "Sec. 3. Section 321.281, subsection 2, unnumbered
22 paragraph 2, Code 1983, is amended to read as follows:
23 No conviction for, or plea of guilty to, a violation
24 of this section ~~which occurred more than six years~~
25 ~~prior to the date of the violation charged~~ or a
26 violation of a corresponding statute of any other
27 state that would have been a violation of this section
28 if it had occurred in this state shall be considered
29 in determining that the violation charged is a second,
30 third or subsequent offense if that previous violation
31 occurred more than six years prior to the date of
32 the violation charged."
33 3. Page 4, by inserting after line 22 the
34 following:
35 "Sec. _____. Section 321B.13, Code 1983, is amended
36 to read as follows:
37 321B.13 REFUSAL TO SUBMIT. If a person refuses
38 to submit to the chemical testing, a test shall not
39 be given, but the department, upon the receipt of
40 a sworn report of the peace officer that the officer
41 had reasonable grounds to believe the person to have
42 been operating a motor vehicle in violation of section
43 321.281, that specified conditions existed for chemical
44 testing pursuant to section 321B.4, and that the
45 person had refused to submit to the chemical testing,
46 shall revoke the person's license or permit to drive
47 and any nonresident operating privilege for a period
48 of one ~~hundred-eighty-days~~ year if the person has
49 no previous revocation under section 321.209,
50 subsection 2, section 321.281, or this chapter,--one

1 ~~year-if-the-person-has-one-previous-revocation-under~~
2 ~~those-provisions; and five-hundred-forty-days two~~
3 ~~years~~ if the person has ~~two one~~ or more previous
4 ~~revocations under those provisions; or if the person~~
5 is a resident without a license or permit to operate
6 a motor vehicle in this state, the department shall
7 deny to the person the issuance of a license or permit
8 for the same period a license or permit would be
9 revoked, subject to review as provided in this chapter.
10 The effective date of revocation shall be twenty days
11 after the department has mailed notice of revocation
12 to the person by certified mail or, on behalf of the
13 department, a peace officer offering or directing
14 the administration of a chemical test may serve
15 immediate notice of intention to revoke and of
16 revocation on a person who refuses to permit chemical
17 testing. If the peace officer serves that immediate
18 notice, the peace officer shall take the Iowa license
19 or permit of the driver, if any, and issue a temporary
20 license effective for only twenty days. The peace
21 officer shall immediately send the person's license
22 to the department along with an affidavit indicating
23 the person's refusal to submit to chemical testing.

24 Sec. ____ Section 321B.16, unnumbered paragraph
25 1, Code 1983, is amended to read as follows:

26 Upon certification by the peace officer that there
27 existed reasonable grounds to believe the person to
28 have been operating a motor vehicle in violation of
29 section 321.281 and that the person submitted to
30 chemical testing and the test results indicate ten
31 hundredths or more of one percent by weight of alcohol
32 in the person's blood, the department shall revoke
33 the person's license or permit to drive or nonresident
34 operating privilege for a period of one hundred ~~twenty~~
35 ~~eighty~~ days if the person has no revocation within
36 the previous six years under section 321.209,
37 subsection 2, section 321.281 or this chapter, ~~two~~
38 ~~hundred-forty-days-if-the-person-has-one-previous~~
39 ~~revocation-under-these-provisions; and one year if~~
40 the person has ~~two one~~ or more revocations under those
41 provisions arising from separate occurrences.

42 Sec. ____ Section 321B.28, Code 1983, is amended
43 to read as follows:

44 321B.28 EVIDENCE IN ANY ACTION. Upon the trial
45 of any civil or criminal action or proceeding arising
46 out of acts alleged to have been committed by any
47 a person while operating a motor vehicle in violation
48 of section 321.281, evidence of the ~~amount-of~~ alcohol
49 concentration or the presence of drugs in the person's
50 blood body substances at the time of the act alleged

1 as shown by a chemical analysis of the person's blood,
2 breath, saliva or urine is admissible. If it is
3 established at trial that an analysis of a breath
4 specimen was performed by use of a properly certified
5 device and methods approved by the commissioner of
6 public safety, no further foundation is necessary
7 for introduction of the evidence."

8 4. By numbering and renumbering to conform to
9 this amendment.

BY TABOR of Jackson

JAY of Appanoose

HOUSE FILE 2486
FISCAL NOTE

REQUESTED BY SENATOR DOYLE

In compliance with a written request there is hereby submitted a Fiscal Note for House File 2486, as Amended and Passed by the House, pursuant to Joint Rule 17.

House File 2486, as amended and passed by the House, makes several changes to the penalties for convictions of operating a motor vehicle while intoxicated which are expected to have an impact on the state general fund and county jails. In calendar year 1983, there were 16,751 dispositions for first and second OMVUI offenses. Approximately 85.2%, 14,272 cases, were for a first OMVUI offense and 14.8%, 2,479 cases, were for a second OMVUI offense. No data is available on the number of persons committing third and subsequent offenses.

Impact on the State General Fund

Section 2 raises the fee collected for the reinstatement of a driver's license from \$20 to \$50 and also increases the \$10 fee to \$50 for those persons whose license previously would have been revoked by mail. The net increase in revenues to the general fund is \$500,130.

Section 4 requires the court to impose a minimum fine of \$500 for the first offense, \$800 for the second offense and \$1,000 for the third and each subsequent OMVUI offense. Assuming that 50% of these fines could be collected, the net increase in revenues to the state general fund is \$4,559,600.

Section 8 requires all persons convicted of a second or subsequent offense who wish to apply to the court for early reinstatement of their licenses to undergo a substance abuse evaluation within thirty days of the application. Assuming that 25% of these will need state financial assistance to fund the evaluation, this would add 620 individuals to the evaluation lists in FY 1986 at a cost to the state of \$33,635.

The following table summarizes the net impact on the state general fund.

Revenues

Court ordered fines	\$ 4,559,600
Fees for driver's license reinstatement	500,130
Total Revenues	\$ 5,059,730

Expenditures

Substance abuse evaluations	\$ (33,635)
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Net increase/(decrease) to the general fund	\$ 5,026,095
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SENATE 5
MARCH 26, 1984

Page Two FISCAL NOTE: HOUSE FILE 2486 AS AMENDED AND PASSED BY THE HOUSE

Impact on County Jails

Section 4 does not allow the court to suspend the jail term for first or second OMVUI offenses. In addition, the court is required to imprison an offender convicted of a third or subsequent OMVUI offense from 90 to 180 days in a county jail or community correctional facility if the sentence is suspended. It is expected that this section will increase the inmate population and the expenses of the county jails.

While it is not possible to estimate the fiscal impact on the counties due to lack of county information, Section 9 attempts to control the costs by allowing counties to charge an OMVUI offender up to \$40 per day for the cost of their incarceration.

(3975H.02, 84-284E, DAW)

Sources: Department of Transportation
IDSA, ISAC, Supreme Court

RECEIVED BY THE SECRETARY OF THE SENATE, MARCH 21, 1984

FILED: BY DENNIS C. PROUTY, DIRECTOR
MARCH 23, 1984 LEGISLATIVE FISCAL BUREAU

1001 St. Elizabeth, 2486

CPB-16200 2/73

1 Section 1. Section 321.1, Code Supplement 1983, is amended
2 by adding the following new subsections:

3 NEW SUBSECTION. "Alcohol concentration" means the number
4 of grams of alcohol per any of the following:

5 a. One hundred milliliters of blood.

6 b. Two hundred ten liters of breath.

7 c. Sixty-seven milliliters of urine.

8 NEW SUBSECTION. "Alcoholic beverage" includes alcohol,
9 wine, spirits, beer, or any other beverage which contains
10 ethyl alcohol and is fit for human consumption.

11 Sec. 2. Section 321.191, unnumbered paragraph 2, Code
12 1983, is amended to read as follows:

13 There shall be a fee of twenty fifty dollars for
14 reinstatement of a chauffeur's license or operator's license
15 which is, after notice and opportunity for hearing, suspended
16 or revoked pursuant to sections 321.193, 321.209 and 321.210,
17 except subsection 4 thereof, 321.513, 321.560, 321A.6, and
18 chapter 321B. ~~The twenty-dollar fee shall be collected only~~
19 ~~if the person whose license was suspended or revoked was~~
20 ~~served personally with notice. -- If the person whose license~~
21 ~~was suspended or revoked was served notice by certified mail,~~
22 ~~the reinstatement fee shall be ten dollars.~~

23 Sec. 3. Section 321.213, Code 1983, is amended to read
24 as follows:

25 321.213 LICENSE SUSPENSIONS OR REVOCATIONS DUE TO
26 VIOLATIONS BY JUVENILE DRIVERS. Upon the ~~entering~~ entry of
27 an order at the conclusion of an adjudicatory hearing under
28 section 232.47 that the child violated a provision of this
29 chapter or chapter 321A or 321B for which the penalty is
30 greater than a simple misdemeanor, ~~or that the child refused~~
31 ~~to submit to chemical testing under section 321B.47, the clerk~~
32 of the juvenile court in the adjudicatory hearing shall forward
33 a copy of the adjudication to the department. Notwithstanding
34 section 232.55, a final adjudication in a juvenile court that
35 the child violated a provision of this chapter or chapter

1 321A or 321B constitutes a final conviction of a the respective
2 violation of a provision of this chapter or chapter 321A for
3 purposes of section 321.189, subsection 2, paragraph "b",
4 and sections 321.193, 321.194, 321.200, 321.209, 321.210,
5 321.215, and 321A.17. Notwithstanding section 232.55, the
6 director shall revoke the license or permit of a child under
7 section 321B.13 upon receipt of a copy of the final
8 adjudication in a juvenile court that the child refused to
9 submit to chemical testing under section 321B.4.

10 Sec. 4. Section 321.281, subsections 1 and 2, Code 1983,
11 are amended to read as follows:

12 1. A person shall not operate a motor vehicle upon the
13 public highways of in this state in either of the following
14 conditions:

15 a. While under the influence of an alcoholic beverage,
16 a narcotic, hypnotic, or other drug, or any a combination
17 of such substances.

18 b. While having thirteen an alcohol concentration of ten
19 hundredths or more of one percent by weight of alcohol in
20 the blood.

21 2. A person convicted who pleads or is found guilty of
22 a violation of this section, upon conviction or a plea of
23 guilty, is guilty of shall be sentenced upon conviction for:

24 a. A serious misdemeanor for the first offense and shall
25 be fined not less than five hundred dollars and imprisoned
26 in the county jail for not less than forty-eight hours, less
27 credit for any time the person was confined in a jail or
28 detention facility following arrest. The court cannot suspend
29 the minimum fine or term of forty-eight hours, notwithstanding
30 section 901.5, subsection 3, and section 907.3, subsection
31 2, but the court may accommodate the sentence to the work
32 schedule of the defendant.

33 b. An aggravated misdemeanor for a second offense and
34 shall be fined not less than eight hundred dollars and
35 imprisoned in the county jail or community-based correctional

1 facility not less than seven days, which minimum fine and
 2 term cannot be suspended, notwithstanding section 901.5,
 3 subsection 3, and section 907.3, subsection 2.

4 c. A class "D" felony for a third offense-and-each or
 5 subsequent offense and shall be fined not less than one
 6 thousand dollars and, in addition, shall be imprisoned in
 7 the county jail or a community-based correctional facility
 8 for a determinate term of not less than thirty nor more than
 9 one hundred eighty days as a condition of probation if the
 10 court suspends the indeterminate term prescribed by section
 11 902.9, subsection 4.

12 No conviction for, or plea of guilty to, a violation of
 13 this section which-occurred-more-than-six-years-prior-to-the
 14 date-of-the-violation-charged or a violation of a corresponding
 15 statute of any other state that would have been a violation
 16 of this section if it had occurred in this state shall be
 17 considered in determining that the violation charged is a
 18 second, third or subsequent offense if that previous violation
 19 occurred more than six years prior to the date of the violation
 20 charged.

21 Sec. 5. Section 321.281, subsection 3, Code 1983, is
 22 amended by striking the subsection and inserting in lieu
 23 thereof the following:

24 3. A person shall be punished for only one violation of
 25 this section based on each occurrence but either or both of
 26 the alternative means described in subsection 1 may be proved
 27 at trial.

28 Sec. 6. Section 321.281, subsection 6, Code 1983, is
 29 amended by striking the subsection.

30 Sec. 7. Section 321.281, subsections 7 and 8, Code 1983,
 31 are amended to read as follows:

32 7. This section does not apply to a person operating a
 33 motor vehicle while under the influence of a narcotic,
 34 hypnotic, or other drug if such substances were the substance
 35 was prescribed for the person and were taken under the

1 prescription and in accordance with the directions of a medical
2 practitioner as defined in section 155.3, subsection 11, if
3 there is no evidence of the consumption of alcohol and the
4 medical practitioner had not directed the person to refrain
5 from operating a motor vehicle.

6 8. In any prosecution under this section, evidence of
7 the results of analysis of a specimen of the defendant's
8 blood, breath, saliva, or urine is admissible upon proof of
9 a proper foundation. In an action in which a violation of
10 by the means described in subsection 1, paragraph "a" of this
11 section is alleged, evidence that there was, at the time,
12 the defendant had an alcohol concentration of ten hundredths
13 or more of one percent by weight of alcohol in the defendant's
14 blood is presumptive evidence that the defendant was under
15 the influence of an alcoholic beverage.

16 Sec. 8. Section 321.281, subsection 9, Code 1983, is
17 amended to read as follows:

18 9. a. Upon a plea or verdict of guilty of a ~~third~~ second
19 or subsequent violation of this section, the court in which
20 the plea was entered or the verdict was returned shall order
21 that the defendant's license or permit to operate motor
22 vehicles be revoked by the department and that the defendant
23 shall remain ineligible for a new license or permit for a
24 period of ~~six~~ five years. Any license or permit to operate
25 motor vehicles held by the defendant shall be surrendered
26 to the court who shall forward it to the department with a
27 copy of the order for revocation.

28 b. After ~~two-years~~ one year from the date of the order
29 for revocation, the defendant may apply to the court for
30 restoration of the defendant's eligibility for a license or
31 permit to operate motor vehicles. The application may be
32 granted only if all of the following are shown by the defendant
33 by a preponderance of the evidence:

34 (1) The defendant has completed an evaluation and, if
35 recommended by the evaluation, a program of treatment for

1 chemical dependency, ~~and is-recovering,-or~~ has substantially
2 recovered, from that dependency on or tendency to abuse alcohol
3 or drugs, and an evaluation within the preceding thirty days
4 indicates no further treatment is required.

5 (2) The defendant has not been convicted, since the date
6 of the revocation order, of any subsequent violations of this
7 section or section 123.46, or any comparable city or county
8 ordinance, and the defendant has not, since the date of the
9 revocation order, submitted to a chemical test under chapter
10 321B that indicated ten hundredths or more of one percent
11 by weight of alcohol in the person's blood or refused to
12 submit to chemical testing under that chapter.

13 (3) The defendant has abstained from the excessive
14 consumption of alcoholic beverages and the consumption of
15 controlled substances, except at the direction of a licensed
16 physician or pursuant to a valid prescription.

17 (4) The defendant's license or permit is not currently
18 subject to suspension or revocation for any other reason.

19 c. The court shall forward to the department a record
20 of any application submitted under paragraph "b" and the
21 results of the court's disposition of the application.

22 d. Upon a plea or verdict of guilty of a violation of
23 this section during the occurrence of which there was an
24 accident causing a serious injury in which the defendant was
25 judged to be at fault, the court in which the plea was entered
26 or the verdict was returned shall order that the defendant's
27 license or permit to operate motor vehicles be revoked by
28 the department and that the defendant shall remain ineligible
29 for a new license or permit for a period of one year in
30 addition to any other period of suspension. Any license or
31 permit to operate motor vehicles held by the defendant shall
32 be surrendered to the court who shall forward it to the
33 department with a copy of the order for revocation. A person
34 whose license to operate a motor vehicle has been revoked
35 pursuant to this subsection may be issued a temporary

1 restricted driving permit by the department allowing the
2 person to drive to and from the person's home and place of
3 employment and in the course of the person's employment upon
4 the completion by the defendant of a substance abuse evaluation
5 under section 125.33 and completion of a program of treatment
6 if recommended.

7 e. Upon a plea or verdict of guilty of a violation of
8 this section during the occurrence of which there was an
9 accident which caused a loss of life for which the defendant
10 was judged to be at fault, the court in which the plea was
11 entered or the verdict was returned shall order that the
12 defendant's license or permit to operate motor vehicles be
13 revoked by the department and that the defendant shall never
14 be eligible for a new license or permit. Any license or
15 permit to operate motor vehicles held by the defendant shall
16 be surrendered to the court who shall forward it to the
17 department with a copy of the order for revocation.

18 Sec. 9. Section 321.281, Code 1983, is amended by adding
19 the following new subsections:

20 NEW SUBSECTION. If a defendant is convicted of or
21 adjudicated under chapter 232, division II for a first offense
22 of this section and the defendant's license or permit to
23 operate a motor vehicle is revoked under section 321.209 or
24 chapter 321B for the occurrence from which the arrest arose,
25 the period of revocation shall be the period provided for
26 such a revocation or until the defendant reaches the age of
27 nineteen whichever period is longer.

28 NEW SUBSECTION. A person whose license to operate a motor
29 vehicle is revoked because the person has been convicted or
30 has pleaded guilty to a violation of section 321.281 or is
31 revoked under subsection 6 of that section shall pay a fifty
32 dollar fee in addition to the reinstatement fee provided in
33 section 321.191 upon an application by the person for
34 reinstatement of the person's license to operate a motor
35 vehicle.

1 NEW SUBSECTION. The court may assess as court costs the
2 cost of imprisoning a person for the minimum sentence required
3 for a conviction of a violation of this section. The cost
4 of imprisonment may not exceed a maximum of forty dollars
5 per day.

6 Sec. 10. Section 321.282, Code 1983, is amended to read
7 as follows:

8 321.282 VIOLATIONS. A person whose license or privilege
9 to operate is revoked or denied because the person has been
10 convicted or has pleaded or been found guilty to of a violation
11 of section 321.281 or is revoked under subsection 6 of that
12 section who is-found-driving drives or operating-any operates
13 a motor vehicle upon-a-highway in this state while the license
14 or privilege is revoked or denied is-guilty-of commits a
15 serious misdemeanor and, notwithstanding section 907.3, shall
16 be imprisoned in the county jail not less than seven days
17 for a first offense under this section and not less than
18 thirty days for a second or subsequent offense under this
19 section.

20 Sec. 11. Section 321.283, Code 1983, is amended by striking
21 the section and inserting in lieu thereof the following:

22 321.283 TREATMENT OR INSTRUCTION FOR DRINKING DRIVERS.

23 1. As used in this section, unless the context otherwise
24 requires:

25 a. "Course for drinking drivers" means an approved course
26 designed to inform the offender about drinking and driving
27 and encourage the offender to assess the driver's drinking
28 and driving behavior in order to select practical alternatives.

29 b. "Satisfactory completion of a course" means receipt
30 of a grade of "C" or "2.0" or better from the course instructor
31 at the completion of the course.

32 2. After a conviction for, or a plea of guilty of, a
33 violation of section 321.281, the court in addition to its
34 power to commit the defendant for treatment of alcoholism
35 under section 321.281, may in lieu of, or prior to or after

1 the pronouncement of sentence for any subsequent offense,
2 order the defendant to submit to evaluation, treatment or
3 rehabilitation services under section 125.33 at the defendant's
4 expense and to furnish evidence of successful completion.
5 A copy of the order shall be forwarded to the department.

6 3. After a conviction for a violation of section 321.281,
7 the court may refer the defendant for treatment at a facility
8 as defined in sections 125.1 to 125.43 and designated by the
9 Iowa department of substance abuse. The court may prescribe
10 the length of time for treatment or it may be left to the
11 discretion of the facility to which the defendant was referred.
12 A person referred under this section who does not have
13 sufficient income or estate to pay the costs of the treatment
14 in whole or in part is a state patient and the costs of the
15 treatment shall be paid under section 125.44.

16 4. A person whose operating privileges have been revoked
17 under chapter 321B or for a conviction of a violation of
18 section 321.281 and who has had no previous revocation under
19 section 321.209, subsection 2, section 321.281, or chapter
20 321B shall not be eligible for reinstatement of operating
21 privileges until the person has filed with the department
22 proof of satisfactory completion of a course for drinking
23 drivers or completion of evaluation, treatment or
24 rehabilitation services under section 125.33 and has filed
25 proof of compliance with chapter 321A.

26 5. A person whose operating privileges have been revoked
27 under chapter 321B or for a conviction of a violation of
28 section 321.281 and who has had one or more previous
29 revocations under section 321.209, subsection 2, section
30 321.281, or chapter 321B shall not be eligible for
31 reinstatement of operating privileges until the person has
32 filed with the department proof of completion of a substance
33 abuse evaluation and, if recommended by the evaluation, a
34 course of treatment or rehabilitation under section 125.33
35 and has filed proof of compliance with chapter 321A.

1 6. A person who is attending evaluation, treatment or
2 rehabilitation services voluntarily or under a court order
3 may be issued a temporary restricted driving permit by the
4 department for driving between the person's home and place
5 of employment, in the person's employment, and to and from
6 the location of the evaluation, treatment or rehabilitation
7 services if the person has complied with chapter 321A. The
8 fee for a temporary restricted driving permit issued under
9 this subsection is ten dollars. The permit must be in the
10 permittee's immediate possession while the permittee is
11 operating a motor vehicle and shall be invalid when the
12 permittee is issued a driver's license. The temporary
13 restricted driving permit shall be canceled upon conviction
14 of a moving traffic violation. A violation of a restriction
15 of a permit issued under this subsection is a simple
16 misdemeanor.

17 7. Successful completion of a course for drinking drivers
18 or evaluation, treatment or rehabilitation services under
19 this section does not reverse or reduce the length of a
20 revocation or denial of operating privileges for a violation
21 of section 321.281 or under chapter 321B.

22 8. The course for drinking drivers shall be offered on
23 a regular basis at each area school as defined in section
24 280A.2. Enrollment in the courses is not limited to persons
25 required to attend the course and any person may enroll in
26 and attend a course for drinking drivers.

27 9. The department of public instruction shall establish
28 reasonable fees to defray the expense of obtaining classroom
29 space, instructor salaries, and class materials for the courses
30 for drinking drivers. No person shall be denied enrollment
31 in a course by reason of indigency.

32 10. No employer shall discharge a person from employment
33 solely for the reason that the person is absent from work
34 in order to attend a course for drinking drivers. An employer
35 who violates this section shall be liable for triple damages

1 occasioned by the unlawful discharge from employment.

2 11. The department of public instruction shall prepare
3 a list of the locations where the course for drinking drivers
4 is offered, the dates and times the course is taught, the
5 procedure for enrollment, and the schedule of course fees.
6 The list shall be kept current and shall be provided to the
7 department and to each district court.

8 12. The department of public instruction shall maintain
9 enrollment, attendance, successful and nonsuccessful completion
10 data on the persons who have enrolled in a course for drinking,
11 drivers. This data shall be forwarded to the department.

12 Sec. 12. Section 321B.1, Code 1983, is amended to read
13 as follows:

14 321B.1 DECLARATION OF POLICY. The general assembly
15 declares that this chapter is necessary to aid the enforcement
16 of laws prohibiting operation of a motor vehicle while under
17 the influence of an alcoholic beverage, a narcotic, hypnotic,
18 or other drug or any a combination of such substances, or
19 while having an alcohol concentration of a certain amount
20 of alcohol in the blood or more.

21 Sec. 13. Section 321B.2, unnumbered paragraph 2, Code
22 1983, is amended to read as follows:

23 As used in this chapter and sections 29B.106, 321.209,
24 and 321.281, 321.494 and 690.2 the words "alcoholic beverage"
25 include and alcohol, wine, spirits, beer, or any other beverage
26 which contains ethyl alcohol and is fit for human consumption
27 concentration means as defined in section 321.1.

28 Sec. 14. Section 321B.4, subsection 1, unnumbered paragraph
29 1, Code 1983, is amended to read as follows:

30 Any person who operates a motor vehicle in this state upon
31 a public highway under circumstances which give reasonable
32 grounds to believe that the person to have has been operating
33 a motor vehicle in violation of section 321.281, is deemed
34 to have given consent to the withdrawal of specimens of the
35 person's blood, breath, saliva, or urine, and to a chemical

1 test or tests of the specimens for the purpose of determining
2 the ~~alcoholic-content-of-the-blood~~ alcohol concentration or
3 presence of drugs, subject to this section. The withdrawal
4 of the body substances and the test or tests shall be
5 administered at the written request of a peace officer having
6 reasonable grounds to believe that the person ~~to-have-been~~
7 was operating a motor vehicle in violation of section 321.281,
8 and if any of the following conditions exist:

9 Sec. 15. Section 321B.4, subsection 1, paragraph d, Code
10 1983, is amended to read as follows:

11 d. The preliminary breath screening test was administered
12 and it ~~reecorded~~ indicated an alcohol concentration of ten
13 hundredths or more ~~of-one-percent-by-weight-of-alcohol-in~~
14 the-blood.

15 Sec. 16. Section 321B.4, subsection 2, Code 1983, is
16 amended to read as follows:

17 2. The peace officer shall determine which of the four
18 three substances, breath, blood, saliva, or urine, shall be
19 tested. Refusal to submit to a chemical test of urine, saliva
20 or breath is deemed a refusal to submit, and ~~section~~ sections
21 321B.13 applies and 321B.29 apply. A refusal to submit to
22 a chemical test of blood is not deemed a refusal to submit,
23 but, in that case, the peace officer shall then determine
24 which one of the other three substances shall be tested and
25 shall offer the test. If the peace officer fails to provide
26 a test within two hours after the preliminary screening test
27 is was administered or refused or the arrest is was made,
28 whichever ~~occurs~~ occurred first, a test is not required, and
29 there shall be no revocation under section 321B.13.

30 Sec. 17. Chapter 321B, Code 1983, is amended by adding
31 the following new section:

32 NEW SECTION. 321B.5 URINE TEST REQUIRED. If there are
33 reasonable grounds to believe that the person was operating
34 a motor vehicle while under the influence of a drug other
35 than or in addition to alcohol and which may not be readily

1 detected by a blood or breath test, the peace officer may
2 request a urine specimen for testing even after a blood or
3 breath specimen has been withdrawn. If the person refuses
4 to submit to a request under this section, sections 321B.13
5 and 321B.29 apply.

6 Sec. 18. Section 321B.12, Code 1983, is amended by striking
7 the section and inserting in lieu thereof the following:

8 321B.12 STATEMENT OF OFFICER. A person who has been
9 requested to submit to a chemical test shall be advised by
10 a peace officer of the following:

11 1. If the person refuses to submit to the test, the
12 person's license or operating privilege will be revoked by
13 the department for the applicable period under section 321B.13.

14 2. If the person submits to the test and the results
15 indicate an alcohol concentration of ten hundredths or more,
16 the person's license or operating privilege will be revoked
17 by the department for the applicable period under section
18 321B.16.

19 This section does not apply in any case involving a person
20 described in section 321B.11.

21 Sec. 19. Section 321B.13, Code 1983, is amended to read
22 as follows:

23 321B.13 REFUSAL TO SUBMIT. If a person refuses to submit
24 to the chemical testing, a test shall not be given, but the
25 department, upon the receipt of a sworn report of certification
26 by the peace officer that the officer had reasonable grounds
27 to believe that the person to-have-been was operating a motor
28 vehicle in violation of section 321.281, that specified there
29 existed one or more of the necessary conditions existed for
30 chemical testing pursuant to described in section 321B.4,
31 subsection 1, and that the person had refused to submit to
32 the chemical testing, the department shall revoke the person's
33 license or permit to drive and any nonresident operating
34 privilege for a period of one hundred-eighty days year if
35 the person has no previous revocation under section 321.209,

1 subsection 2, section 321.281, or this chapter, one-year
2 if-the-person-has-one-previous-reveeation-under-those
3 provisions; and five-hundred-forty-days two years if the
4 person has two one or more previous revocations under those
5 provisions;-or-if. If the person is a resident without a
6 license or permit to operate a motor vehicle in this state,
7 the department shall deny to the person the issuance of a
8 license or permit for the same period a license or permit
9 would be have been revoked, subject to review as provided
10 in this chapter.

11 PARAGRAPH DIVIDED. The effective date of revocation shall
12 be twenty days after the department has mailed notice of
13 revocation to the person by certified mail or,-on-behalf-of
14 the-department,-a. The peace officer offering-or-directing
15 the-administration-of-a who requested the chemical test may,
16 on behalf of the department, serve immediate notice of
17 intention-to-reveke-and-of revocation on a person who refuses
18 to permit chemical testing. If the peace officer serves that
19 immediate notice, the peace officer shall take the person's
20 Iowa license or permit of-the-driver, if any, and issue a
21 temporary license effective valid for only twenty days. The
22 peace officer shall immediately send the person's license
23 to the department along with an-affidavit the officer's
24 certificate indicating the person's refusal to submit to
25 chemical testing.

26 The department may, on application, issue a temporary
27 restricted license to a person whose license has been revoked
28 under this section and who has entered a plea of guilty to
29 a charge under section 321.281 when the person's regular
30 employment includes the operation of a motor vehicle or who
31 cannot perform the person's regular occupation without the
32 use of a motor vehicle, or when the person's use of a motor
33 vehicle is necessary to attend evaluation, treatment or
34 educational services for alcohol or drug dependency, but the
35 person shall not operate a vehicle for pleasure while holding

1 a restricted license. However, this paragraph does not apply
2 to a person whose license is suspended or revoked for another
3 reason.

4 Sec. 20. Section 321B.14, subsection 4, Code 1983, is
5 amended to read as follows:

6 4. Search warrants issued under this section shall
7 authorize and direct peace officers to secure the withdrawal
8 of blood specimens by-medical-personnel under section 321B.15.
9 Reasonable care shall be exercised to ensure the health and
10 safety of the persons from whom specimens are withdrawn in
11 execution of the warrants. If a peace officer elects to seek
12 withdrawal of a blood specimen but the person from whom a
13 the specimen is to be withdrawn objects to the withdrawal
14 of blood, the officer may still secure a urine specimen at
15 that time if possible or, if the person is capable of giving
16 a specimen of breath, and a direct breath testing instrument
17 is readily available, the warrant may be executed by the
18 withdrawal of a breath specimen of-breath for chemical testing.

19 Sec. 21. Section 321B.15, Code 1983, is amended to read
20 as follows:

21 321B.15 TAKING SAMPLE FOR TEST. Only a licensed physician,
22 physician's assistant as defined in section 148C.1, subsection
23 6, medical technologist or registered nurse, acting at the
24 request of a peace officer, may withdraw body-substances a
25 specimen of blood for the purpose of determining the ~~alcoholic~~
26 ~~or-drug-content-of-the-person's-blood~~ alcohol concentration
27 ~~or the presence of drugs.~~ However, any peace officer, using
28 devices and methods approved by the commissioner of public
29 safety, may take a specimen of a person's breath or urine
30 for the purpose of determining the ~~alcoholic-or-drug-content~~
31 ~~of-the-person's-blood~~ alcohol concentration or the presence
32 of drugs. Only new, originally factory wrapped, disposable
33 syringes and needles, kept under strictly sanitary and sterile
34 conditions shall be used for drawing blood.

35 PARAGRAPH DIVIDED. The person may have an independent

1 chemical test or tests administered by a person of the person's
2 own choosing and at the person's own expense in addition to
3 any administered at the direction of a peace officer. The
4 failure or inability of the person to obtain an independent
5 chemical test or tests does not preclude the admission in
6 of evidence of the results of the test or tests taken
7 administered at the direction of the peace officer. Upon
8 the request of the person who is tested, the results of the
9 test or tests taken administered at the direction of the peace
10 officer shall be made available to the person.

11 Sec. 22. Section 321B.16, Code 1983, is amended to read
12 as follows:

13 321B.16 TEST RESULT REVOCATION. Upon certification by
14 the peace officer that there existed reasonable grounds to
15 believe that the person to-have had been operating a motor
16 vehicle in violation of section 321.281, that there existed
17 one or more of the necessary conditions for chemical testing
18 described in section 321B.4, subsection 1, and that the person
19 submitted to chemical testing and the test results indicate
20 indicated an alcohol concentration of ten hundredths or more
21 of-one-percent-by-weight-of-alcohol-in-the-person's-blood,
22 the department shall revoke the person's license or permit
23 to drive or nonresident operating privilege for a period of
24 one hundred twenty eighty days if the person has had no
25 revocation within the previous six years under section 321.209,
26 subsection 2, section 321.281 or this chapter, two-hundred
27 forty-days-if-the-person-has-one-previous-revocation-under
28 those-provisions, and one year if the person has two had one
29 or more previous revocations under those provisions arising
30 from separate occurrences.

31 The effective date of the revocation shall be twenty days
32 after the department has mailed notice of revocation to the
33 person by certified mail or, on-behalf-of-the-department,
34 a. The peace officer offering-a-chemical-test-or-directing
35 who requested or directed the administration of a the chemical

1 test may, on behalf of the department, serve immediate notice
2 of-intention-to-revoke-and of revocation on a person when
3 the-person's whose test results indicate indicated an alcohol
4 concentration of ten hundredths or more of-one-percent-by
5 weight-of-alcohol-in-the-blood.

6 If the peace officer serves that immediate notice, the
7 peace officer shall take the person's Iowa license or permit
8 of-the-driver, if any, and issue a temporary license valid
9 only for twenty days. The peace officer shall immediately
10 send the person's driver's license to the department along
11 with an-affidavit-stating the officer's certificate indicating
12 that the test results indicate indicated an alcohol
13 concentration of ten hundredths of-one-percent or more by
14 weight-of-alcohol-in-the-person's-blood.

15 The Not less than thirty days after the effective date
16 of a revocation under this section, the department may, on
17 application, issue a temporary restricted license to a the
18 person whose license has been revoked under-this-section when
19 the person's regular employment includes the operation of
20 a motor vehicle or who the person cannot perform his or her
21 regular occupation without the use of a motor vehicle, or
22 when the person's use of a motor vehicle is necessary to
23 attend evaluation, treatment or educational services for
24 alcohol or drug dependency, but the person shall not operate
25 a vehicle for pleasure while holding a restricted license.
26 However, this paragraph does not apply to a person whose
27 license is suspended or revoked for another reason.

28 Sec. 23. Section 321B.26, Code 1983, is amended to read
29 as follows:

30 321B.26 HEARING. Upon the written request of a person
31 whose privilege to drive has been revoked or denied, or who
32 has been issued a twenty-day license pursuant to section
33 321B.13 or section 321B.16, the department shall grant the
34 person an opportunity to be heard within twenty days after
35 the receipt of the request, but the request must be made

1 within ten days of the effective date of revocation or denial
2 of driving privileges or the issuance of a temporary permit
3 license. A revocation or denial of driving privileges under
4 this chapter shall not be stayed upon a request for a hearing
5 but the department may upon application grant a stay of the
6 balance of the revocation if the hearing has not been held
7 within sixty days. The hearing shall be before the department
8 in the county where the alleged events occurred, unless the
9 director and the person agree that the hearing may be held
10 in some other county. The hearing may be recorded and its
11 scope shall ~~cover~~ be limited to the issues of whether a peace
12 officer had reasonable grounds to believe that the person
13 to-have-been was operating a motor vehicle in violation of
14 section 321.281, whether and either of the following:

15 a. Whether the person refused to submit to the test or
16 tests.

17 b. Whether a test was administered and the test results
18 ~~if a person consented to a test and whether the person should~~
19 ~~be issued a temporary restricted license~~ indicated an alcohol
20 concentration of ten hundredths or more.

21 PARAGRAPH DIVIDED. The department shall order that the
22 revocation or denial be either rescinded or sustained.

23 Sec. 24. Section 321B.28, Code 1983, is amended to read
24 as follows:

25 321B.28 EVIDENCE IN ANY ACTION. Upon the trial of any
26 civil or criminal action or proceeding arising out of acts
27 alleged to have been committed by any a person while operating
28 a motor vehicle in violation of section 321.281, evidence
29 of the ~~amount~~ of alcohol concentration or the presence of
30 drugs in the person's ~~blood~~ body substances at the time of
31 the act alleged as shown by a chemical analysis of the person's
32 blood, breath, saliva or urine is admissible. If it is
33 established at trial that an analysis of a breath specimen
34 was performed by use of a device and methods approved by the
35 commissioner of public safety, it is presumed that the test

1 results are valid and no further foundation is necessary for
2 introduction of the evidence.

3 Sec. 25. Section 321B.36, Code 1983, is amended to read
4 as follows:

5 321B.36 OTHER EVIDENCE. ~~The provisions of this~~ This
6 chapter ~~shall~~ does not be construed as limiting limit the
7 introduction of any other competent evidence bearing on the
8 question of whether the person was under the influence of
9 an alcoholic beverage or other drugs.

10 Sec. 26. Section 321B.38, Code 1983, is amended to read
11 as follows:

12 321B.38 DRIVING WHILE LICENSE DENIED OR REVOKED. Any
13 A person whose license or driving privilege has been denied
14 or revoked ~~as provided in~~ under this chapter and who drives
15 any a motor vehicle ~~upon the highways of~~ in this state while
16 the license or privilege is denied or revoked ~~is guilty of~~
17 commits a serious misdemeanor and, notwithstanding section
18 907.3, shall be imprisoned in the county jail not less than
19 seven days for a first offense under this section and not
20 less than thirty days for a second or subsequent offense under
21 this section. ~~The~~ In addition, the department, upon receiving
22 the record of the conviction of any a person under this section
23 ~~upon a charge of driving a motor vehicle while the license~~
24 ~~of the person was revoked or denied~~, shall extend the period
25 of revocation or denial for an additional like period, and
26 the department shall not issue a new license during the
27 additional period.

28 Sec. 27. Section 602.6405, Code Supplement 1983, is amended
29 by striking the section and inserting in lieu thereof the
30 following:

31 602.6405 JURISDICTION--PROCEDURE.

32 1. Magistrates have jurisdiction as follows:

33 a. Of simple misdemeanors, including traffic and ordinance
34 violations.

35 b. Of preliminary hearings.

1 c. Of search warrant proceedings.
 2 d. Of small claims.
 3 e. To exercise the powers specified in sections 644.2
 4 and 644.12.
 5 f. To hear complaints, issue warrants, order arrests,
 6 make commitments, and take bail.
 7 g. Of first offense violations of section 321.281 to the
 8 extent that they may approve trial informations, conduct
 9 arraignments, accept guilty pleas from defendants represented
 10 by legal counsel, and sentence persons whose guilty pleas
 11 they accept.
 12 h. Of violations of sections 321.218, 321.282, 321A.32
 13 and 321B.38 to the extent that they may approve trial
 14 informations, conduct arraignments, accept guilty pleas, hear
 15 bench trials, and sentence persons.
 16 2. The criminal procedure before magistrates is as provided
 17 in chapters 804, 806, 808, 811, 820 and 821 and the rules
 18 of criminal procedure applicable to the offenses of which
 19 they exercise jurisdiction. The civil procedure before
 20 magistrates shall be as provided in chapters 631 and 648.
 21 Sec. 28. Section 690.2, Code 1983, is amended to read
 22 as follows:
 23 690.2 FINGER AND PALM PRINTS--DUTY OF SHERIFF AND CHIEF
 24 OF POLICE. It shall be the duty of the sheriff of every
 25 county, and the chief of police of each city regardless of
 26 the-form-of-government-thereof-and having a population of
 27 ten thousand or ever more, to take the fingerprints of all
 28 persons held either for investigation, -fer or the commission
 29 of a felony, as a fugitive from justice, or for bootlegging,
 30 the maintenance of an intoxicating liquor nuisance,
 31 manufacturing intoxicating liquor, operating a motor vehicle
 32 while-under-the-influence-of-an-alcoholic-beverage in violation
 33 of section 321.281 or for illegal transportation of
 34 intoxicating liquor, and to take the fingerprints of all
 35 unidentified dead bodies in their respective jurisdictions,

1 and to forward such the fingerprint records on such forms
2 and in such a manner as may be prescribed by the commissioner
3 of public safety, within forty-eight hours after the same
4 fingerprints are taken, to the bureau division of criminal
5 investigation. If the fingerprints of any person are taken
6 under the provisions hereof this section whose fingerprints
7 are not already on file, and said the person is not convicted
8 of any offense, then said the fingerprint records shall be
9 destroyed by any officer having them. In addition to the
10 taking fingerprints as herein provided any such under this
11 section, an officer may also take the person's palm prints
12 of any such person.

13 Sec. 29. Section 907.3, subsection 1, paragraph g, Code
14 1983, is amended to read as follows:

15 g. The offense is a violation of section 321.281 and,
16 within the previous six years, the person has been convicted
17 of a violation of that section or the person's driver's license
18 has been revoked pursuant to that section or chapter 321B.

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HOUSE FILE 2486

S-5509

1 Amend House File 2486 as amended, passed, and re-
2 printed by the House as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. Section 123.3, subsection 33, Code
6 1983, is amended to read as follows:

7 33. "Legal age" means nineteen twenty years of
8 age or more, however, for a person who is an active
9 member of the armed forces of the United States legal
10 age means nineteen years of age or more.

11 Sec. 2. Section 123.50, Code 1983, is amended
12 by adding the following new subsections:

13 NEW SUBSECTION. 4. However, upon the conviction
14 of a licensee, beer permittee, or employee of a
15 licensee or permittee for a violation of section
16 123.49, subsection 2, paragraph "h", in lieu of the
17 period of suspension required under subsection 3,
18 the department may assess a civil penalty of one
19 hundred dollars for a first offense, two hundred and
20 fifty dollars for a second offense within a twelve-
21 month period, and five hundred dollars for a third
22 offense within a twelve-month period. Money collected
23 from penalties assessed under this subsection shall
24 be deposited with the Iowa department of substance
25 abuse for use in substance abuse treatment programs.

26 NEW SUBSECTION. 5. Upon the conviction of an
27 employee of a state liquor store for a violation of
28 section 123.47, the department shall assess a civil
29 penalty against the state liquor store of one hundred
30 dollars for a first offense, two hundred fifty dollars
31 for a second offense within a twelve-month period,
32 and five hundred dollars for a third offense within
33 a twelve-month period. Money collected from penalties
34 assessed under this subsection shall be deposited
35 with the Iowa department of substance abuse for use
36 in substance abuse treatment programs.

37 Sec. 3. Section 321.189, subsection 1, Code 1983,
38 is amended by inserting after unnumbered paragraph
39 1 the following new unnumbered paragraph:

40 NEW UNNUMBERED PARAGRAPH. A motor vehicle license
41 or a nonoperator's identification card issued to a
42 person under twenty years of age shall be identical
43 in form to any other motor vehicle license or
44 nonoperator's identification card issued to any other
45 person, except that the photograph appearing on the
46 face of the license or card shall be a side profile
47 of the applicant. Upon attaining the age of twenty,
48 the person shall be entitled to a new motor vehicle
49 license or nonoperator's identification card and the
50 applicant shall receive a credit against the cost

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1 of a new motor vehicle license or nonoperator's
2 identification card in an amount equal to the
3 apportioned monthly cost for the unexpired months
4 of the motor vehicle license or the nonoperator's
5 identification card. This paragraph is effective
6 for licenses or cards issued after the effective date
7 of this Act.

8 Sec. 4. Section 321.281, subsection 2, Code 1983,
9 is amended by adding the following new unnumbered
10 paragraph:

11 NEW UNNUMBERED PARAGRAPH. On a conviction for
12 a second or subsequent offense in violation of this
13 section, the court shall order the defendant to undergo
14 a substance abuse evaluation and the court may order
15 the defendant to follow the recommendations proposed
16 in the substance abuse evaluation for appropriate
17 substance abuse treatment for the defendant. The
18 time for which the defendant is committed for treatment
19 shall be credited against the defendant's sentence.
20 The court may prescribe the length of time for the
21 evaluation and treatment or it may request that the
22 hospital to which the person is committed immediately
23 report to the court when the person has received
24 maximum benefit from the program of the hospital or
25 institution or has recovered from the person's
26 addiction, dependency, or tendency to chronically
27 abuse alcohol or drugs. A person committed under
28 this section who does not possess sufficient income
29 or estate to make payment of the costs of the treatment
30 in whole or in part shall be considered a state patient
31 and the costs of treatment shall be paid as provided
32 in section 125.44. A defendant who fails to carry
33 out the order of the court or who fails to successfully
34 complete or attend an ordered substance abuse treatment
35 program shall be confined in the county jail for
36 twenty days in addition to any other imprisonment
37 ordered by the court or may be ordered to perform
38 unpaid community service work, and shall be placed
39 on probation for one year with a violation of this
40 probation punishable as contempt of court.

41 Sec. 5. Section 321.281, Code 1983, is amended
42 by adding the following new subsection:

43 NEW SUBSECTION. 10. The court shall order a
44 defendant convicted of a violation of this section
45 to make restitution for damages resulting directly
46 from the violation.

47 Sec. 6. STUDY COMMITTEE CREATED.

48 1. There is established a committee to study the
49 laws and penalties relating to operating motor vehicles
50 while intoxicated composed of eight members. The

509
E 3

1 members shall be appointed as follows:

2 a. The chief justice of the supreme court shall
3 select one judge to be a member and chair the
4 committee.

5 b. The Iowa county attorneys association shall
6 select one member of their organization as a member.

7 c. The Iowa public defenders association shall
8 select one member of their organization as a member.

9 d. The department of public safety shall select
10 an employee as a member.

11 e. The department of transportation shall select
12 an employee of that department as a member.

13 f. The Iowa department of substance abuse shall
14 select an employee as a member.

15 g. The legislative council shall select an attorney
16 experienced in the defense of those charged with
17 driving while intoxicated as a member.

18 h. The legislative council shall select a person
19 with professional experience in substance abuse
20 treatment as a member.

21 All members of the study committee shall be
22 appointed not later than thirty days from the effective
23 date of this Act. The study committee shall hold
24 its organizational meeting not more than thirty days
25 following the appointment of its membership.

26 2. Public members of the study committee shall
27 receive a per diem of forty dollars and be reimbursed
28 for their travel and other necessary expenses actually
29 incurred in the performance of their official duties.
30 Public employees who are members of the study committee
31 shall be reimbursed for travel and other expenses
32 actually incurred in the performance of their official
33 duties.

34 3. The study committee shall conduct a
35 comprehensive study of the laws and penalties presently
36 in the Code relating to the operation of a motor
37 vehicle by a person who is intoxicated and make
38 recommendations for any changes in the law the
39 committee deems necessary. The study committee may
40 request assistance of any state or local government
41 agency to obtain any data or other information which
42 the study committee deems necessary to carry out its
43 duties. The state and local government agencies shall
44 provide any assistance requested by the study
45 committee.

46 4. The study committee may request that the
47 legislative council provide staff for the study
48 committee from the staff of the legislative service
49 bureau and the legislative fiscal bureau.

50 5. The study committee shall transmit copies of

PAGE 4

1 its final report to the general assembly on January
2 5, 1985. The final report shall include findings
3 of fact and its recommendations and relevant data
4 gathered by and for the committee."

S-5509 FILED BY COMMITTEE ON JUDICIARY
MARCH 26, 1984 DONALD V. DOYLE

*Adopted as amended by 5536,
5553, 5555, 5564, 5566-7
5-554 3/27 (p. 1043)*

HOUSE FILE 2486

S-5511

1 Amend Senate amendment S-5509 to House File 2486
2 as amended, passed, and reprinted by the House as follows:
3 1. Page 1, by striking lines 7 through 10 and
4 inserting in lieu thereof the following:
5 "33. "Legal age" means nineteen twenty-one years
6 of age or more."
7 2. Page 1, line 42, by striking the word "twenty"
8 and inserting in lieu thereof the word "twenty-one".
9 3. Page 1, line 47, by striking the word "twenty"
10 and inserting in lieu thereof the word "twenty-one".

S-5511 FILED
MARCH 26, 1984

Amended 3/27 (p. 1082.7)

BY DONALD V. DOYLE
MILO COLTON
WILLIAM W. DIELEMAN
NORMAN GOODWIN
JAMES BRILES
BASS VAN GILST

HOUSE FILE 2486

S-5536

1 Amend Senate amendment S-5509 to House File 2486
2 as follows:
3 1. Page 1, by striking lines 5 through 10.
4 2. By renumbering sections as required by this
5 amendment.

S-5536 FILED
MARCH 26, 1984

Adopted 3/27 (p. 1083)

BY JOE WELSH
WALLY HORN

HOUSE FILE 2486

S-5559

1 Amend Senate amendment S-5509 to House File 2486
2 as amended, passed, and reprinted by the House as
3 follows:
4 1. Page 2, line 17, by inserting after the word
5 "defendant." the following: "Court ordered substance
6 abuse treatment is subject to the periodic reporting
7 requirements of section 125.86. If a defendant is
8 committed by the court to a substance abuse treatment
9 facility, the administrator of the facility shall
10 report to the court when it is determined that the
11 defendant has received the maximum benefit of treatment
12 at the facility and the defendant shall be released
13 from the facility."

S-5559 FILED & ADOPTED
MARCH 27, 1984 (p. 1082)

BY TOM MANN, JR.

HOUSE FILE 2486

S-5562

1 Amend Senate amendment S-5509 to House File 2486
2 as amended, passed and reprinted by the House, as
3 follows:
4 "1. By striking page 1, line 48 through page 2,
5 line 3 and inserting in lieu thereof the words "and
6 upon the payment of a one dollar fee, the person shall
7 be entitled to a new motor vehicle license or
8 nonoperator's identification card for the unexpired
9 months".

S-5562 FILED & ADOPTED
MARCH 27, 1984 (p. 1084)

BY DONALD V. DOYLE

HOUSE FILE 2486

S-5563

1 Amend the amendment S-5509 to House File 2486 as
2 amended, passed, and reprinted by the House as follows:
3 1. Page 1, line 10, by inserting after the word
4 "more" the words "and for a person who is married
5 legal age means 18 years of age or more".

S-5563 FILED

MARCH 27, 1984

RULED OUT OF ORDER (p. 1084)

BY TOM MANN JR.

JOE BROWN

HOUSE FILE 2486

S-5556

1 Amend Senate amendment S-5509 to House File 2486
2 as amended, passed, and reprinted by the House as
3 follows:
4 1. Page 2, line 17, by inserting after the word
5 "defendant." the following: "Court ordered substance
6 abuse treatment is subject to the periodic reporting
7 requirements of section 123.86. If a defendant is
8 committed by the court to a substance abuse treatment
9 facility, the administrator of the facility shall
10 report to the court when it is determined that the
11 defendant has received the maximum benefit of treatment
12 at the facility and the defendant shall be released
13 from the facility."

S-5556 FILED

BY TOM MANN, JR.

MARCH 27, 1984

RULED OUT OF ORDER (p. 1083)

HOUSE FILE 2486

S-5557

1 Amend the amendment S-5509 to House File 2486 as
2 amended, passed, and reprinted by the House as follows:
3 1. Page 2, line 50, by striking the word "eight"
4 and inserting in lieu thereof the word "nine".
5 2. Page 3, by inserting after line 20 the following:
6 "i. The governor shall appoint one member of the
7 legislature as a member."

S-5557 FILED

BY JAMES V. GALLAGHER

MARCH 27, 1984

N/D (p. 1085)

HOUSE FILE 2486

S-5558

1 Amend Senate amendment S-5509 to House File 2486
2 as amended, passed, and reprinted by the House as
3 follows:
4 1. Page 1, by striking lines 13 through 22 and
5 inserting in lieu thereof the following:
6 "NEW SUBSECTION. 4. The department shall adopt
7 rules to establish fines in amounts of not more than
8 three thousand dollars which the department shall,
9 subject to the discretion of the director, assess
10 against licensees or permittees for violations of
11 section 123.49 as an alternative to other penalties
12 fixed for such violations by this section. Money
13 collected".

S-5558 FILED & ADOPTED

BY DONALD V. DOYLE

MARCH 27, 1984 (p. 1082)

HOUSE FILE 2486

S-5564

1 Amend Senate amendment S-5509 to House File 2486
2 as amended, passed, and reprinted by the House as
3 follows:

4 1. Page 1, by inserting after line 36 the
5 following:

6 "Sec. ____ Section 321.1, Code Supplement 1983,
7 is amended by adding the following new subsections:

8 NEW SUBSECTION. "Alcohol concentration" means
9 the number of grams of alcohol per any of the
10 following:

11 a. One hundred milliliters of blood.

12 b. Two hundred ten liters of breath.

13 c. Sixty-seven milliliters of urine.

14 NEW SUBSECTION. "Alcoholic beverage" includes
15 alcohol, wine, spirits, beer, or any other beverage
16 which contains ethyl alcohol and is fit for human
17 consumption."

18 2. Page 2, by inserting after line 7 the following:

19 "Sec. ____ Section 321.281, subsection 1, Code
20 1983, is amended to read as follows:

21 1. A person shall not operate a motor vehicle
22 ~~upon-the-public-highways-of~~ in this state in either
23 of the following conditions:

24 a. While under the influence of an alcoholic
25 beverage, ~~a-narcotic, hypnotic, or other drug, or~~
26 ~~or~~ a combination of such substances.

27 b. While having an alcohol concentration of
28 thirteen hundredths or more ~~of one percent by weight~~
29 ~~of alcohol in the blood.~~

30 3. Page 2, by inserting after line 40 the
31 following:

32 "Sec. ____ Section 321.281, subsections 7 and
33 8, Code 1983, are amended to read as follows:

34 7. This section does not apply to a person
35 operating a motor vehicle while under the influence
36 of a ~~narcotic, hypnotic, or other~~ drug if ~~such~~
37 ~~substances were~~ the substance was prescribed for the
38 person and ~~were~~ was taken under the prescription and
39 in accordance with the directions of a medical
40 practitioner as defined in section 155.3, subsection
41 11, if there is no evidence of the consumption of
42 alcohol and the medical practitioner had not directed
43 the person to refrain from operating a motor vehicle.

44 8. In any prosecution under this section, evidence
45 of the results of analysis of a specimen of the
46 defendant's blood, breath, ~~saliva,~~ or urine is
47 admissible upon proof of a proper foundation. In
48 an action in which a violation ~~of~~ by the means
49 described in subsection 1, paragraph "a" of this
50 section is alleged, evidence that ~~there was, at the~~

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1 ~~time, the defendant had an alcohol concentration of~~
2 ~~ten hundredths or more of one-percent-by-weight-of~~
3 ~~alcohol-in-the-defendant's-blood~~ is presumptive
4 evidence that the defendant was under the influence
5 of an alcoholic beverage."

6 4. Page 2, by inserting after line 46 the
7 following:

8 "Sec. _____. Section 321B.1, Code 1983, is amended
9 to read as follows:

10 321B.1 DECLARATION OF POLICY. The general assembly
11 declares that this chapter is necessary to aid the
12 enforcement of laws prohibiting operation of a motor
13 vehicle while under the influence of an alcoholic
14 beverage, ~~a-narcotic, hypnotic,~~ or other drug or any
15 a combination of such substances, or while having
16 an alcohol concentration of a certain amount of alcohol
17 ~~in-the-blood~~ or more.

18 Sec. _____. Section 321B.2, unnumbered paragraph
19 2, Code 1983, is amended to read as follows:

20 As used in this chapter and sections 29B.106,
21 ~~321.209, and 321.281, 321.494-and-690.2~~ the words
22 "alcoholic beverage" ~~include and alcohol, wine,~~
23 ~~spirits, beer, or any other beverage which contains~~
24 ~~ethyl alcohol and is fit for human consumption~~
25 concentration means as defined in section 321.1.

26 Sec. _____. Section 321B.4, subsection 1, unnumbered
27 paragraph 1, Code 1983, is amended to read as follows:

28 Any person who operates a motor vehicle in this
29 state ~~upon-a-public-highway~~ under circumstances which
30 give reasonable grounds to believe that the person
31 ~~to-have~~ has been operating a motor vehicle in violation
32 of section 321.281, is deemed to have given consent
33 to the withdrawal of specimens of the person's blood,
34 breath, ~~saliva,~~ or urine, and to a chemical test or
35 tests of the specimens for the purpose of determining
36 ~~the alcoholic content of the blood~~ alcohol
37 concentration or presence of drugs, subject to this
38 section. The withdrawal of the body substances and
39 the test or tests shall be administered at the written
40 request of a peace officer having reasonable grounds
41 to believe that the person ~~to-have-been~~ was operating
42 a motor vehicle in violation of section 321.281, and
43 if any of the following conditions exist:

44 Sec. _____. Section 321B.4, subsection 1, paragraph
45 d, Code 1983, is amended to read as follows:

46 d. The preliminary breath screening test was
47 administered and it ~~recorded~~ indicated an alcohol
48 concentration of ten hundredths or more of one-percent
49 ~~by-weight-of-alcohol-in-the-blood.~~

50 Sec. _____. Section 321B.12, Code 1983, is amended

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1 by striking the section and inserting in lieu thereof
2 the following:

3 321B.12 STATEMENT OF OFFICER. A person who has
4 been requested to submit to a chemical test shall
5 be advised by a peace officer of the following:

6 1. If the person refuses to submit to the test,
7 the person's license or operating privilege will be
8 revoked by the department for the applicable period
9 under section 321B.13.

10 2. If the person submits to the test and the
11 results indicate an alcohol concentration of ten
12 hundredths or more, the person's license or operating
13 privilege will be revoked by the department for the
14 applicable period under section 321B.16.

15 This section does not apply in any case involving
16 a person described in section 321B.11.

17 Sec. _____. Section 321B.15, Code 1983, is amended
18 to read as follows:

19 321B.15 TAKING SAMPLE FOR TEST. Only a licensed
20 physician, physician's assistant as defined in section
21 148C.1, subsection 6, medical technologist or
22 registered nurse, acting at the request of a peace
23 officer, may withdraw ~~body-substances~~ a specimen of
24 blood for the purpose of determining the ~~alcohol~~
25 ~~or drug content of the person's blood~~ alcohol
26 concentration or the presence of drugs. However,
27 any peace officer, using devices and methods approved
28 by the commissioner of public safety, may take a
29 specimen of a person's breath or urine for the purpose
30 of determining the ~~alcohol or drug content of the~~
31 ~~person's blood~~ alcohol concentration or the presence
32 of drugs. Only new, originally factory wrapped,
33 disposable syringes and needles, kept under strictly
34 sanitary and sterile conditions shall be used for
35 drawing blood.

36 PARAGRAPH DIVIDED. The person may have an
37 independent chemical test or tests administered by
38 a person of the person's own choosing and at the
39 person's own expense in addition to any administered
40 at the direction of a peace officer. The failure
41 or inability of the person to obtain an independent
42 chemical test or tests does not preclude the admission
43 ~~in~~ of evidence of the results of the test or tests
44 ~~taken~~ administered at the direction of the peace
45 officer. Upon the request of the person who is tested,
46 the results of the test or tests ~~taken~~ administered
47 at the direction of the peace officer shall be made
48 available to the person.

49 Sec. _____. Section 321B.16, Code 1983, is amended
50 to read as follows:

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1 321B.16 TEST RESULT REVOCATION. Upon certification
2 by the peace officer that there existed reasonable
3 grounds to believe that the person ~~to have~~ had been
4 operating a motor vehicle in violation of section
5 321.281, that there existed one or more of the
6 necessary conditions for chemical testing described
7 in section 321B.4, subsection 1, and that the person
8 submitted to chemical testing and the test results
9 indicate indicated an alcohol concentration of ten
10 hundredths or more of one-percent-by-weight-of-alcohol
11 in-the-person's-blood, the department shall revoke
12 the person's license or permit to drive or nonresident
13 operating privilege for a period of one hundred ~~twenty~~
14 eighty days if the person has had no revocation within
15 the previous six years under section 321.209,
16 subsection 2, section 321.281 or this chapter, two
17 hundred-forty-days-if-the-person-has-one-previous
18 revocation-under-these-provisions, and one year if
19 the person has two had one or more previous revocations
20 under those provisions arising from separate
21 occurrences.

22 The effective date of the revocation shall be
23 twenty days after the department has mailed notice
24 of revocation to the person by certified mail ~~or~~
25 ~~on-behalf-of-the-department~~, a. The peace officer
26 offering-a-chemical-test-or-directing who requested
27 or directed the administration of a the chemical test
28 may, on behalf of the department, serve immediate
29 notice of-intention-to-revoke-and of revocation on
30 a person ~~when-the-person's~~ whose test results indicate
31 indicated an alcohol concentration of ten hundredths
32 or more of one-percent-by-weight-of-alcohol-in-the
33 blood.

34 If the peace officer serves that immediate notice,
35 the peace officer shall take the person's Iowa license
36 or permit of-the-driver, if any, and issue a temporary
37 license valid only for twenty days. The peace officer
38 shall immediately send the person's driver's license
39 to the department along with an-affidavit-stating
40 the officer's certificate indicating that the test
41 results indicate indicated an alcohol concentration
42 of ten hundredths of one-percent or more by-weight
43 of-alcohol-in-the-person's-blood.

44 The Not less than thirty days after the effective
45 date of a revocation under this section, the department
46 may, on application, issue a temporary restricted
47 license to a the person whose license has been revoked
48 under-this-section when the person's regular employment
49 includes the operation of a motor vehicle or who the
50 person cannot perform his or her regular occupation

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1 without the use of a motor vehicle, or when the
2 person's use of a motor vehicle is necessary to attend
3 evaluation, treatment or educational services for
4 alcohol or drug dependency, but the person shall not
5 operate a vehicle for pleasure while holding a
6 restricted license. However, this paragraph does
7 not apply to a person whose license is suspended or
8 revoked for another reason.

9 Sec. _____. Section 321B.26, Code 1983, is amended
10 to read as follows:

11 321B.26 HEARING. Upon the written request of
12 a person whose privilege to drive has been revoked
13 or denied, or who has been issued a twenty-day license
14 pursuant to section 321B.13 or section 321B.16, the
15 department shall grant the person an opportunity to
16 be heard within twenty days after the receipt of the
17 request, but the request must be made within ten days
18 of the effective date of revocation or denial of
19 driving privileges or the issuance of a temporary
20 permit license. A revocation or denial of driving
21 privileges under this chapter shall not be stayed
22 upon a request for a hearing but the department may
23 upon application grant a stay of the balance of the
24 revocation if the hearing has not been held within
25 sixty days. The hearing shall be before the department
26 in the county where the alleged events occurred,
27 unless the director and the person agree that the
28 hearing may be held in some other county. The hearing
29 may be recorded and its scope shall ~~ever~~ be limited
30 to the issues of whether a peace officer had reasonable
31 grounds to believe that the person ~~to have been~~ was
32 operating a motor vehicle in violation of section
33 321.281, ~~whether~~ and either of the following:

34 a. Whether the person refused to submit to the
35 test or tests.

36 b. Whether a test was administered and the test
37 results ~~if a person consented to a test and whether~~
38 ~~the person should be issued a temporary restricted~~
39 ~~license indicated an alcohol concentration of ten~~
40 ~~hundredths or more.~~

41 PARAGRAPH DIVIDED. The department shall order
42 that the revocation or denial be either rescinded
43 or sustained.

44 Sec. _____. Section 321B.28, Code 1983, is amended
45 to read as follows:

46 321B.28 EVIDENCE IN ANY ACTION. Upon the trial
47 of any civil or criminal action or proceeding arising
48 out of acts alleged to have been committed by any
49 a person while operating a motor vehicle in violation
50 of section 321.281, evidence of the ~~amount of~~ alcohol

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1 concentration or the presence of drugs in the person's
2 blood body substances at the time of the act alleged
3 as shown by a chemical analysis of the person's blood,
4 breath, saliva or urine is admissible. If it is
5 established at trial that an analysis of a breath
6 specimen was performed by use of a device and methods
7 approved by the commissioner of public safety, it
8 is presumed that the test results are valid and no
9 further foundation is necessary for introduction
0 of the evidence."

S-5564 FILED & ADOPTED
MARCH 27, 1984 (p. 1081)

BY DOUGLAS RITSEMA

HOUSE FILE 2486

S-5548

1 Amend the amendment S-5509 to House File 2486 as
2 amended, passed, and reprinted by the House as follows:
3 1. Page 2, line 50, by striking the word "eight"
4 and inserting in lieu thereof the word "nine".
5 2. Page 3, by inserting after line 20 the following:
6 "i. One member of the legislature appointed by the
7 governor."

S-5548 FILED & WITHDRAWN
MARCH 27, 1984 (p. 1084)

BY JAMES V. GALLAGHER

HOUSE FILE 2486

S-5553

1 Amend Senate amendment S-5509 to House File 2486
2 as amended, passed and reprinted by the House as
3 follows:
4 1. Page 1, line 42, by striking the word "twenty"
5 and inserting in lieu thereof the word "nineteen".
6 2. Page 1, line 47, by striking the word "twenty"
7 and inserting in lieu thereof the word "nineteen".

S-5553 FILED & ADOPTED
MARCH 27, 1984 (p. 1083)

BY JOE WELSH
WALLY HORN

HOUSE FILE 2486

S-5555

1 Amend Senate amendment S-5509 to House File 2486
2 as amended, passed and reprinted by the House as
3 follows:
4 1. Page 2, by inserting after line 46 the
5 following:
6 "Sec. ____ Section 321.281, Code 1983, is amended
7 by adding the following new subsection:
8 NEW SUBSECTION. If a defendant is convicted of
9 a first offense of this section and the defendant's
10 license or permit to operate a motor vehicle is revoked
11 under section 321.209 or chapter 321B for the
12 occurrence from which the arrest arose, the period
13 of revocation shall be the period provided for such
14 a revocation or until the defendant reaches the age
15 of nineteen whichever period is longer."

S-5555 FILED & ADOPTED (p. 1084) BY HURLEY HALL
MARCH 27, 1984

S-5567

1 Amend Senate amendment S-5509 to House File 2486
2 as amended, passed and reprinted by the House as
3 follows:
4 1. Page 2, by inserting after line 7 the
5 following:
6 "Sec. ____ Section 321.190. subsection 2, Code
7 1983, is amended by adding the following new unnumbered
8 paragraphs:

9 NEW UNNUMBERED PARAGRAPH. Upon conviction of a
10 minor for use of an altered nonoperator's
11 identification card or a card not the minor's own
12 while attempting to purchase or purchasing goods or
13 services prohibited to a minor or in attempting to
14 enter or entering premises prohibited to a minor,
15 the minor's card or privilege to obtain a card shall
16 be revoked for a period of five years. In the case
17 in which the minor used a card not the minor's own
18 for identification, there is a presumption that the
19 card was obtained with the owner's permission, and
20 upon conviction the owner's card shall be revoked
21 for a period of five years. A person responsible
22 for checking identification for legal age who suspects
23 that a nonoperator's card presented for identification
24 purposes does not belong to the person presenting
25 it or suspects that it has been altered may hold the
26 card and summon a peace officer to the scene. If
27 the officer determines there is cause to believe that
28 the card does not belong to the person presenting
29 it or that the card has been altered, the officer
30 shall issue a citation to the person presenting it
31 and when applicable to the person to whom the card
32 belongs and the officer shall confiscate the card
33 pending action on the citation.

34 NEW UNNUMBERED PARAGRAPH. If a person used a
35 nonoperator's identification card for identification
36 when making, uttering, drawing, delivering, or giving
37 a check, share draft, draft, or written order, on
38 a bank, credit union, person, or corporation when
39 the person knew that the check, share draft, draft,
40 or written order would not be paid when presented,
41 the person's card shall be revoked for a period of
42 five years upon a conviction.

43 Sec. ____ Section 321.209, Code Supplement 1983,
44 is amended by adding the following new subsections:

45 NEW SUBSECTION. 9. Theft by making, uttering,
46 drawing, delivering, or giving a check, share draft,
47 draft, or written order, on a bank, credit union,
48 person, or corporation when the person knew that the
49 check, share draft, draft, or written order would
50 not be paid when presented and the person's motor

1 vehicle license was used for identification.

2 NEW SUBSECTION. 10. Possession of an altered
 3 motor vehicle license or a motor vehicle license not
 4 one's own when used by a minor in attempting to
 5 purchase or purchasing goods or services prohibited
 6 to a minor or in attempting to enter or entering
 7 premises prohibited to a minor.

8 NEW SUBSECTION. 11. Lending a motor vehicle
 9 license to a minor when used by the minor in attempting
 10 to purchase or purchasing goods or services prohibited
 11 to a minor or in attempting to enter or entering
 12 premises prohibited to a minor.

13 Sec. ____ Section 321.216, Code 1983, is amended
 14 by adding the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. A person responsible
 16 for checking identification for legal age who suspects
 17 that a motor vehicle license presented for
 18 identification purposes does not belong to the person
 19 presenting it or suspects that it has been altered
 20 may hold the motor vehicle license and summon a peace
 21 officer to the scene. If the officer determines there
 22 is cause to believe that the motor vehicle license
 23 does not belong to the person presenting it or that
 24 the motor vehicle license has been altered, the officer
 25 shall issue a citation to the person presenting it
 26 and when applicable to the person to whom the motor
 27 vehicle license belongs and the officer shall
 28 confiscate the motor vehicle license pending action
 29 on the citation. In the case in which the minor used
 30 a motor vehicle license not the minor's own for iden-
 31 tification, there is a presumption that the motor
 32 vehicle license was obtained with the owner's
 33 permission."

S-5567 FILED

BY CHARLES P. MILLER

MARCH 27, 1984

RULED OUT OF ORDER (p. 1087)

HOUSE FILE 2486

S-5566

1 Amend the amendment S-5509 to House File 2486 as
 2 amended, passed and reprinted by the House as follows:

3 1. Page 2, line 50, by striking the word "eight"
 4 and inserting in lieu thereof the word "nine".

5 2. Page 3, by inserting after line 20 the following:

6 "i. The legislative council shall appoint one member of the
 7 legislature as a member."

S-5566 FILED & ADOPTED

BY JAMES V. GALLAGHER

MARCH 27, 1984 (p. 1086)

HOUSE FILE 2486

S-5573

1 Amend House File 2486 as amended, passed and
 2 reprinted by the House as follows:

3 1. By striking page 13, line 26 through page 14,
 4 line 3.

S-5573 FILED

BY RAY TAYLOR

MARCH 27, 1984

RULED OUT OF ORDER

S-5565

Amend Senate amendment S-5509 to House File 2486
as amended, passed and reprinted by the House as
follows:

1. Page 1, by inserting after line 25 the
following:

"NEW SUBSECTION. 5. Upon the conviction of a
vendor, as defined in section 123.24, subsection 1,
for a violation of section 123.47 and at the request
of the local authority, the director shall close the
state liquor store at which the violation occurred
for a period of fourteen days."

2. Page 1, by striking lines 26 through 28 and
inserting in lieu thereof the following:

"NEW SUBSECTION. 6. However, upon the conviction
of a vendor for a violation of section 123.47, in
lieu of the period of suspension required under
subsection 5, the department may assess a civil".

3. Page 2, by inserting after line 46 the
following:

"Sec. _____. Section 321.281, Code 1983, is amended
by adding the following new subsection:

NEW SUBSECTION. When an officer makes an arrest
for a violation of this section, the officer shall
seize the motor vehicle driven by the arrested person.
The motor vehicle shall not be returned under chapter
809 to the arrested person until there is a disposition
of the charge. For the purposes of this subsection
a disposition includes a dismissal, conviction,
granting of a deferred judgment or admission to a
deferred prosecution program. If the defendant is
placed upon probation or is admitted to a deferred
prosecution program, the defendant must file with
the clerk of the court a performance bond in the
amount of the vehicle's value for successful completion
of the conditions of the probation or program in order
to have the vehicle returned. If the defendant is
not the owner of the vehicle, the vehicle shall be
returned to the owner only if the owner files an
appearance bond in the amount of the vehicle's value
that the defendant will appear as required by section
811.6. The holder of a lien on the motor vehicle
has the same rights under this subsection as an owner
who is not the defendant. The defendant shall pay
the costs of the seizure and storage."

4. Renumber as required.

S-5565 FILED

BY EDGAR H. HOLDEN

MARCH 27, 1984

DIVISION A - ADOPTED (1086)

DIVISION B - LOST

HOUSE FILE 2486
FISCAL NOTE
AMENDMENT H-6285
REQUESTED BY REPRESENTATIVE MCKEAN

In compliance with a written request received April 9, 1984, there is hereby submitted a Fiscal Note for AMENDMENT H-6285 TO HOUSE FILE 2486 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the General Assembly upon request.

Amendment H-6285 replaces House File 2486 by striking everything after the enacting clause.

Section 1 raises revenues for substance abuse programs by allowing the department of beer and liquor control to impose a civil fine for violations of Section 123.49. In calendar year 1983, the beer and liquor control department suspended 90 licenses, local authorities reported 9 instances and 5 liquor store clerks were convicted of sales to minors. It is not known how many were first, second or subsequent offenses. Assuming that most of these were first offenses, the estimated revenue for substance abuse programs would be \$285,750.

Section 5 has a potential of increasing the costs of state funded substance abuse treatment by requiring that all persons convicted of a second or subsequent offense OMVUI undergo a substance abuse evaluation. The court retains the option of sentencing the person to appropriate substance abuse treatment as determined by the evaluation. While the courts are currently requiring substance abuse evaluations and treatment for some OMVUI offenders, the exact numbers were not known. The following estimate assumes that all these cases would be new cases and the costs reflected are assumed to be maximum costs to the state general fund.

In 1983, approximately 2,480 were convicted of a second OMVUI offense. If 25% of these were unable to pay for the substance abuse evaluation, the estimated impact on the state general fund would be \$33,635 assuming an average cost for an evaluation is \$54.25.

Assuming that 50% of those evaluated need either inpatient or outpatient substance abuse treatment, an additional 620 persons would be served in these programs. Currently, the treatment population being served in 72% outpatient and 28% inpatient. An additional 446 persons at an average outpatient cost of \$500 would result in a cost to the general fund of \$223,000.

An additional 174 persons at an average inpatient cost of \$1,180 would result in a cost to the general fund of \$204,848.

Section 5 also requires the courts to place persons who do not complete court ordered substance abuse treatment on probation for one year. While this may have an impact on the probation caseloads and costs, it is not possible to estimate the impact due to lack of data on the members of people who currently fail to complete treatment.

Page Two, Fiscal Note House File 2486, Amendment H-6285

Section 18 establishes a committee to study the laws and penalties relating to OMVUI. Assuming that the study committee meets twice a month for four months (September through December), the cost for the four non-public employees would be \$3,300.

The following table summarizes the maximum impact on the state general fund.

	<u>FY 1985</u>
Revenue from fines	\$ 285,750
Substance Abuse Evaluations	(33,635)
Inpatient Substance Abuse Treatment	(223,000)
Outpatient Substance Abuse Treatment	(204,848)
Study Committee Expenses	(3,200)

Net Increase/(Decrease) to State General Fund (\$ 178,933)

(2486.603, 84-328F, DAW)

Sources: Beer and Liquor Control Dept., Dept. of Transportation, Dept. of Substance abuse, Supreme Court

FILED APRIL 17, 1984

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE AMENDMENT TO HOUSE FILE 2486

6285

1 Amend House File 2486 as amended, passed, and re-
2 printed by the House as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. Section 123.50, Code 1983, is amended
6 by adding the following new subsections:

7 NEW SUBSECTION. 4. The department shall adopt
8 rules to establish fines in amounts of not more than
9 three thousand dollars which the department shall,
10 subject to the discretion of the director, assess
11 against licensees or permittees for violations of
12 section 123.49 as an alternative to other penalties
13 fixed for such violations by this section. Money
14 collected from penalties assessed under this subsection
15 shall be deposited with the Iowa department of
16 substance abuse for use in substance abuse treatment
17 programs.

18 NEW SUBSECTION. 5. Upon the conviction of a
19 vendor, as defined in section 123.24, subsection 1,
20 for a violation of section 123.47 and at the request
21 of the local authority, the director shall close the
22 state liquor store at which the violation occurred
23 for a period of fourteen days.

24 NEW SUBSECTION. 6. However, upon the conviction
25 of a vendor for a violation of section 123.47, in
26 lieu of the period of suspension required under
27 subsection 5, the department may assess a civil penalty
28 against the state liquor store of one hundred dollars
29 for a first offense, two hundred fifty dollars for
30 a second offense within a twelve-month period, and
31 five hundred dollars for a third offense within a
32 twelve-month period. Money collected from penalties
33 assessed under this subsection shall be deposited
34 with the Iowa department of substance abuse for use
35 in substance abuse treatment programs.

36 Sec. 2. Section 321.1, Code Supplement 1983, is
37 amended by adding the following new subsections:

38 NEW SUBSECTION. "Alcohol concentration" means
39 the number of grams of alcohol per any of the
40 following:

- 41 a. One hundred milliliters of blood.
- 42 b. Two hundred ten liters of breath.
- 43 c. Sixty-seven milliliters of urine.

44 NEW SUBSECTION. "Alcoholic beverage" includes
45 alcohol, wine, spirits, beer, or any other beverage
46 which contains ethyl alcohol and is fit for human
47 consumption.

48 Sec. 3. Section 321.189, subsection 1, Code 1983,
49 is amended by inserting after unnumbered paragraph
1 the following new unnumbered paragraph:

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1 NEW UNNUMBERED PARAGRAPH. A motor vehicle license
2 or a nonoperator's identification card issued to a
6298 3 person under nineteen years of age shall be identical
4 in form to any other motor vehicle license or
5 nonoperator's identification card issued to any other
6 person, except that the photograph appearing on the
7 face of the license or card shall be a side profile
6298 8 of the applicant. Upon attaining the age of nineteen,
9 and upon the payment of a one dollar fee, the person
10 shall be entitled to a new motor vehicle license or
11 nonoperator's identification card for the unexpired
12 months of the motor vehicle license or the
13 nonoperator's identification card. This paragraph
14 is effective for licenses or cards issued after the
15 effective date of this Act.

6448 16 Sec. 4. Section 321.281, subsection 1, Code 1983,
17 is amended to read as follows:

18 1. A person shall not operate a motor vehicle
19 ~~upon the public highways of~~ in this state in either
20 of the following conditions:

21 a. While under the influence of an alcoholic
22 beverage, ~~a narcotic, hypnotic,~~ or other drug, or
23 any a combination of such substances.

24 b. While having an alcohol concentration of
25 ~~thirteen hundredths or more of one percent by weight~~
26 ~~of alcohol in the blood.~~

6448 27 Sec. 5. Section 321.281, subsection 2, Code 1983,
28 is amended by adding the following new unnumbered
29 paragraph:

30 NEW UNNUMBERED PARAGRAPH. On a conviction for
31 a second or subsequent offense in violation of this
32 section, the court shall order the defendant to undergo
33 a substance abuse evaluation and the court may order
34 the defendant to follow the recommendations proposed
35 in the substance abuse evaluation for appropriate
36 substance abuse treatment for the defendant. Court
37 ordered substance abuse treatment is subject to the
38 periodic reporting requirements of section 125.86.
39 If a defendant is committed by the court to a substance
40 abuse treatment facility, the administrator of the
41 facility shall report to the court when it is
42 determined that the defendant has received the maximum
43 benefit of treatment at the facility and the defendant
44 shall be released from the facility. The time for
45 which the defendant is committed for treatment shall
46 be credited against the defendant's sentence. The
47 court may prescribe the length of time for the
48 evaluation and treatment or it may request that the
49 hospital to which the person is committed immediately
50 report to the court when the person has received

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1 maximum benefit from the program of the hospital or
2 institution or has recovered from the person's
3 addiction, dependency, or tendency to chronically
4 abuse alcohol or drugs. A person committed under
5 this section who does not possess sufficient income
6 or estate to make payment of the costs of the treatment
7 in whole or in part shall be considered a state patient
8 and the costs of treatment shall be paid as provided
9 in section 125.44. A defendant who fails to carry
10 out the order of the court or who fails to successfully
11 complete or attend an ordered substance abuse treatment
12 program shall be confined in the county jail for
13 twenty days in addition to any other imprisonment
14 ordered by the court or may be ordered to perform
15 unpaid community service work, and shall be placed
16 on probation for one year with a violation of this
17 probation punishable as contempt of court.

18 Sec. 6. Section 321.281, subsections 7 and 8,
19 Code 1983, are amended to read as follows:

20 7. This section does not apply to a person
21 operating a motor vehicle while under the influence
22 of a ~~narcotic-hypnotic-or-ether~~ drug if such
23 ~~substances-were~~ the substance was prescribed for the
24 person and ~~were~~ was taken under the prescription and
25 in accordance with the directions of a medical
26 practitioner as defined in section 155.3, subsection
27 11, if there is no evidence of the consumption of
28 alcohol and the medical practitioner had not directed
29 the person to refrain from operating a motor vehicle.
30 8. In any prosecution under this section, evidence
31 of the results of analysis of a specimen of the
32 defendant's blood, breath, ~~saliva~~, or urine is
33 admissible upon proof of a proper foundation. In
34 an action in which a violation ~~of~~ by the means
35 described in subsection 1, paragraph "a" of this
36 section is alleged, evidence that there-was,-at-the
37 time, the defendant had an alcohol concentration of
38 ten hundredths or more of-one-percent-by-weight-of
39 alcohol-in-the-defendant's-blood is presumptive
40 evidence that the defendant was under the influence
41 of an alcoholic beverage.

6445 42 Sec. 7. Section 321.281, Code 1983, is amended
43 by adding the following new subsection:

44 NEW SUBSECTION. 10. The court shall order a
45 defendant convicted of a violation of this section
46 to make restitution for damages resulting directly
47 from the violation.

6445 48 Sec. 8. Section 321.281, Code 1983, is amended
49 by adding the following new subsection:

0 NEW SUBSECTION. If a defendant is convicted of

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1 a first offense of this section and the defendant's
2 license or permit to operate a motor vehicle is revoked
3 under section 321.209 or chapter 321B for the
4 occurrence from which the arrest arose, the period
5 of revocation shall be the period provided for such
6 a revocation or until the defendant reaches the age
7 of nineteen whichever period is longer.

8 Sec. 9. Section 321B.1, Code 1983, is amended
9 to read as follows:

10 321B.1 DECLARATION OF POLICY. The general assembly
11 declares that this chapter is necessary to aid the
12 enforcement of laws prohibiting operation of a motor
13 vehicle while under the influence of an alcoholic
14 beverage, ~~a narcotic, hypnotic, or other drug or any~~
15 a combination of such substances, or while having
16 an alcohol concentration of a certain amount of alcohol
17 in the blood or more.

18 Sec. 10. Section 321B.2, unnumbered paragraph
19 2, Code 1983, is amended to read as follows:

20 As used in this chapter and sections 29B.106,
21 ~~321.209, and 321.281, 321.494 and 690.2~~ the words
22 "alcoholic beverage" include and alcohol, wine,
23 spirits, beer, or any other beverage which contains
24 ethyl alcohol and is fit for human consumption
25 concentration means as defined in section 321.1.

26 Sec. 11. Section 321B.4, subsection 1, unnumbered
27 paragraph 1, Code 1983, is amended to read as follows:

28 Any person who operates a motor vehicle in this
29 state ~~upon a public highway~~ under circumstances which
30 give reasonable grounds to believe that the person
31 ~~to have~~ has been operating a motor vehicle in violation
32 of section 321.281, is deemed to have given consent
33 to the withdrawal of specimens of the person's blood,
34 breath, saliva, or urine, and to a chemical test or
35 tests of the specimens for the purpose of determining
36 the alcoholic content of the blood alcohol
37 concentration or presence of drugs, subject to this
38 section. The withdrawal of the body substances and
39 the test or tests shall be administered at the written
40 request of a peace officer having reasonable grounds
41 to believe that the person to have been was operating
42 a motor vehicle in violation of section 321.281, and
43 if any of the following conditions exist:

44 Sec. 12. Section 321B.4, subsection 1, paragraph
45 d, Code 1983, is amended to read as follows:

46 d. The preliminary breath screening test was
47 administered and it recorded indicated an alcohol
48 concentration of ten hundredths or more of one percent
49 by weight of alcohol in the blood.

50 Sec. 13. Section 321B.12, Code 1983, is amended

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1 by striking the section and inserting in lieu thereof .
2 the following:

3 321B.12 STATEMENT OF OFFICER. A person who has
4 been requested to submit to a chemical test shall
5 be advised by a peace officer of the following:

6 1. If the person refuses to submit to the test,
7 the person's license or operating privilege will be
8 revoked by the department for the applicable period
9 under section 321B.13.

10 2. If the person submits to the test and the
11 results indicate an alcohol concentration of ten
12 hundredths or more, the person's license or operating
13 privilege will be revoked by the department for the
14 applicable period under section 321B.16.

15 This section does not apply in any case involving
16 a person described in section 321B.11.

6448 17 Sec. 14. Section 321B.15, Code 1983, is amended
18 to read as follows:

19 321B.15 TAKING SAMPLE FOR TEST. Only a licensed
20 physician, physician's assistant as defined in section
21 148C.1, subsection 6, medical technologist or
22 registered nurse, acting at the request of a peace
23 officer, may withdraw ~~body-substances~~ a specimen of
24 blood for the purpose of determining the alcoholic
~~or-drug-content-of-the-person's-blood~~ alcohol
26 concentration or the presence of drugs. However,
27 any peace officer, using devices and methods approved
28 by the commissioner of public safety, may take a
29 specimen of a person's breath or urine for the purpose
30 of determining the ~~alcoholic-or-drug-content-of-the~~
31 person's-blood alcohol concentration or the presence
32 of drugs. Only new, originally factory wrapped,
33 disposable syringes and needles, kept under strictly
34 sanitary and sterile conditions shall be used for
35 drawing blood.

36 PARAGRAPH DIVIDED. The person may have an
37 independent chemical test or tests administered by
38 a person of the person's own choosing and at the
39 person's own expense in addition to any administered
40 at the direction of a peace officer. The failure
41 or inability of the person to obtain an independent
42 chemical test or tests does not preclude the admission
43 in of evidence of the results of the test or tests
44 taken administered at the direction of the peace
45 officer. Upon the request of the person who is tested,
46 the results of the test or tests taken administered
47 at the direction of the peace officer shall be made
48 available to the person.

49 Sec. 15. Section 321B.16, Code 1983, is amended
50 to read as follows:

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1 321B.16 TEST RESULT REVOCATION. Upon certification
2 by the peace officer that there existed reasonable
3 grounds to believe that the person ~~to-have~~ had been
4 operating a motor vehicle in violation of section
5 321.281, that there existed one or more of the
6 necessary conditions for chemical testing described
7 in section 321B.4, subsection 1, and that the person
8 submitted to chemical testing and the test results
9 indicate indicated an alcohol concentration of ten
10 hundredths or more of-one-percent-by-weight-of-alcohol
11 in-the-person's-blood, the department shall revoke
12 the person's license or permit to drive or nonresident
13 operating privilege for a period of one hundred twenty
14 eighty days if the person has had no revocation within
15 the previous six years under section 321.209,
16 subsection 2, section 321.281 or this chapter, two
17 hundred-forty-days-if-the-person-has-one-previous
18 revocation-under-these-provisions, and one year if
19 the person has two had one or more previous revocations
20 under those provisions arising from separate
21 occurrences.

22 The effective date of the revocation shall be
23 twenty days after the department has mailed notice
24 of revocation to the person by certified mail or
25 on-behalf-of-the-department, a. The peace officer
26 offering-a-chemical-test-or-directing who requested
27 or directed the administration of a the chemical test
28 may, on behalf of the department, serve immediate
29 notice of-intention-to-revoke-and of revocation on
30 a person when-the-person's whose test results indicate
31 indicated an alcohol concentration of ten hundredths
32 or more of-one-percent-by-weight-of-alcohol-in-the
33 blood.

34 If the peace officer serves that immediate notice,
35 the peace officer shall take the person's Iowa license
36 or permit of-the-driver, if any, and issue a temporary
37 license valid only for twenty days. The peace officer
38 shall immediately send the person's driver's license
39 to the department along with an-affidavit-stating
40 the officer's certificate indicating that the test
41 results indicate indicated an alcohol concentration
42 of ten hundredths of-one-percent or more by-weight
43 of-alcohol-in-the-person's-blood.

44 The Not less than thirty days after the effective
45 date of a revocation under this section, the department
46 may, on application, issue a temporary restricted
47 license to a the person whose license has been revoked
48 under-this-section when the person's regular employment
49 includes the operation of a motor vehicle or who the
50 person cannot perform his or her regular occupation

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1 without the use of a motor vehicle, or when the
2 person's use of a motor vehicle is necessary to attend
3 evaluation, treatment or educational services for
4 alcohol or drug dependency, but the person shall not
5 operate a vehicle for pleasure while holding a
6 restricted license. However, this paragraph does
7 not apply to a person whose license is suspended or
8 revoked for another reason.

9 Sec. 16. Section 321B.26, Code 1983, is amended
10 to read as follows:

11 321B.26 HEARING. Upon the written request of
12 a person whose privilege to drive has been revoked
13 or denied, or who has been issued a twenty-day license
14 pursuant to section 321B.13 or section 321B.16, the
15 department shall grant the person an opportunity to
16 be heard within twenty days after the receipt of the
17 request, but the request must be made within ten days
18 of the effective date of revocation or denial of
19 driving privileges or the issuance of a temporary
20 permit license. A revocation or denial of driving
21 privileges under this chapter shall not be stayed
22 upon a request for a hearing but the department may
23 upon application grant a stay of the balance of the
24 revocation if the hearing has not been held within
25 sixty days. The hearing shall be before the department
26 in the county where the alleged events occurred,
27 unless the director and the person agree that the
28 hearing may be held in some other county. The hearing
29 may be recorded and its scope shall ~~ever~~ be limited
30 to the issues of whether a peace officer had reasonable
31 grounds to believe that the person to-have-been was
32 operating a motor vehicle in violation of section
33 321.281, whether and either of the following:

34 a. Whether the person refused to submit to the
35 test or tests.

36 b. Whether a test was administered and the test
37 results if-a-person-consented-to-a-test-and-whether
38 the-person-should-be-issued-a-temporary-restricted
39 license indicated an alcohol concentration of ten
40 hundredths or more.

41 PARAGRAPH DIVIDED. The department shall order
42 that the revocation or denial be either rescinded
43 or sustained.

44 Sec. 17. Section 321B.28, Code 1983, is amended
45 to read as follows:

46 321B.28 EVIDENCE IN ANY ACTION. Upon the trial
47 of any civil or criminal action or proceeding arising
48 out of acts alleged to have been committed by ~~any~~
49 a person while operating a motor vehicle in violation
50 of section 321.281, evidence of the ~~amount~~-of alcohol

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1 concentration or the presence of drugs in the person's
2 blood body substances at the time of the act alleged
3 as shown by a chemical analysis of the person's blood,
4 breath, saliva or urine is admissible. If it is
5 established at trial that an analysis of a breath
6 specimen was performed by use of a device and methods
7 approved by the commissioner of public safety, it
8 is presumed that the test results are valid and no
9 further foundation is necessary for introduction of
10 the evidence.

6445
11 Sec. 18. STUDY COMMITTEE CREATED.

12 1. There is established a committee to study the
13 laws and penalties relating to operating motor vehicles
14 while intoxicated composed of nine members. The
15 members shall be appointed as follows:

16 a. The chief justice of the supreme court shall
17 select one judge to be a member and chair the
18 committee.

19 b. The Iowa county attorneys association shall
20 select one member of their organization as a member.

21 c. The Iowa public defenders association shall
22 select one member of their organization as a member.

23 d. The department of public safety shall select
24 an employee as a member.

25 e. The department of transportation shall select
26 an employee of that department as a member.

27 f. The Iowa department of substance abuse shall
28 select an employee as a member.

29 g. The legislative council shall select an attorney
30 experienced in the defense of those charged with
31 driving while intoxicated as a member.

32 h. The legislative council shall select a person
33 with professional experience in substance abuse
34 treatment as a member.

35 i. The legislative council shall appoint one
36 member of the legislature as a member.

37 All members of the study committee shall be
38 appointed not later than thirty days from the effective
39 date of this Act. The study committee shall hold
40 its organizational meeting not more than thirty days
41 following the appointment of its membership.

42 2. Public members of the study committee shall
43 receive a per diem of forty dollars and be reimbursed
44 for their travel and other necessary expenses actually
45 incurred in the performance of their official duties.
46 Public employees who are members of the study committee
47 shall be reimbursed for travel and other expenses
48 actually incurred in the performance of their official
49 duties.

50 3. The study committee shall conduct a

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1 comprehensive study of the laws and penalties presently.
2 in the Code relating to the operation of a motor
3 vehicle by a person who is intoxicated and make
4 recommendations for any changes in the law the
5 committee deems necessary. The study committee may
6 request assistance of any state or local government
7 agency to obtain any data or other information which
8 the study committee deems necessary to carry out its
9 duties. The state and local government agencies shall
10 provide any assistance requested by the study
11 committee.

12 4. The study committee may request that the
13 legislative council provide staff for the study
14 committee from the staff of the legislative service
15 bureau and the legislative fiscal bureau.

16 5. The study committee shall transmit copies of
17 its final report to the general assembly on January
18 5, 1985. The final report shall include findings
19 of fact and its recommendations and relevant data
20 gathered by and for the committee."

H-6285 FILED APRIL 13, 1984 RECEIVED FROM THE SENATE

House amended (6407) & concurred 4/19 (p. 2314)

HOUSE FILE 2486

H-6381

- 1 Amend amendment H-6285 to House File 2486 as
- 2 amended, passed and reprinted by the House as follows:
- 3 1. Page 2, line 25, by striking the word "thirteen"
- 4 and inserting in lieu thereof the words "~~thirteen~~
- 5 ten".

H-6381 FILED APRIL 17, 1984 BY VAN CAMP of Scott
W/D 4/19 (p. 2289)

HOUSE FILE 2486

H-6419

- 1 Amend amendment H-6407 to amendment H-6285 to
- 2 House File 2486 as amended, passed, and reprinted by
- 3 the House as follows:
- 4 1. Page 2, line 15, by striking the word "thirteen"
- 5 and inserting in lieu thereof the words "~~thirteen~~ ten".

BY LAGESCHULTE of Bremer
McKEAN of Jones
VAN MAANEN of Mahaska
DE GROOT of Lyon
PELLETT of Cass

H-6419 FILED APRIL 18, 1984
Loss 4/19 (p. 2303)

HOUSE FILE 2486

H-6436

- 1 Amend amendment H-6285 to House File 2486 as
- 2 amended, passed and reprinted by the House as follows:
- 3 1. Page 8, by inserting after line 28 the
- 4 following:
- 5 "____. The Iowa department of justice shall select
- 6 an employee of that department as a member.
- 7 _____. The Iowa insurance institute shall select
- 8 a member of that organization as a member."

H-6436 FILED APRIL 18, 1984 BY MILLER of Woodbury
W/D 4/19 (p. 2289)

HOUSE FILE 2486

H-6444

- 1 Amend amendment H-6407 to amendment H-6285 to House
- 2 File 2486 as amended, passed, and reprinted by the
- 3 House as follows:
- 4 1. Page 11, line 16, by striking the word "nine"
- 5 and inserting in lieu thereof the word "ten".
- 6 2. Page 11, by inserting after line 28 the
- 7 following:
- 8 "____. The Iowa department of justice shall select
- 9 an employee of that department as a member."

H-6444 FILED APRIL 18, 1984 BY MILLER of Woodbury
Adopted 4/19 (p. 2306)

HOUSE FILE 2486

H-6445

- 1 Amend House amendment H-6407 to the amendment H-
- 2 6285 to House File 2486 as amended, passed, and
- 3 reprinted by the House as follows:
- 4 1. Page 5, line 20, by striking the words "or
- 5 school".

H-6445 FILED APRIL 18, 1984 BY OSTERBERG of Linn
Adopted 4/19 (p. 2305)

HOUSE FILE 2486

H-6298

- 1 Amend amendment H-6285 to House File 2486 as
- 2 amended, passed and reprinted by the House as follows:
- 3 1. Page 1, by inserting after line 4 the following:
- 4 "Section 1. Section 123.3, subsection 33, Code
- 5 1983, is amended to read as follows:
- 6 33. "Legal age" means ~~nineteen~~ twenty-one years
- 7 of age or more.
- 8 Sec. 2. Section 1 of this Act does not apply
- 9 to persons born on or before June 30, 1965."
- 10 2. Page 2, line 3, by striking the word "nineteen"
- 11 and inserting in lieu thereof the word "twenty-one".
- 12 3. Page 2, line 8, by striking the word "nineteen"
- 13 and inserting in lieu thereof the word "twenty-one".

ROYER of Page

MAULSBY of Calhoun

HERMANN of Scott

RENKEN of Grundy

MENKE of O'Brien

ANDERSON of Audubon

SCHNEKLOTH of Scott

WELDEN of Hardin

H-6298 FILED APRIL 16, 1984

N/D 4/19 (p. 2274)

BY VAN CAMP of Scott

HAVERLAND of Polk

BRANSTAD of Winnebago

GRANDIA of Marion

BENNETT of Ida

HALVORSON of Clayton

DAGGETT of Taylor

COREY of Louisa

VAN GERPEN of Black Hawk

HOUSE FILE 2486

H-6339

- 1 Amend the amendment H-6285 to House File 2486 as
- 2 amended, passed, and reprinted by the House as follows:
- 3 1. Page 4, line 7, by inserting after the word
- 4 "longer." the words "A person whose license to operate
- 5 a motor vehicle is revoked pursuant to this subsection
- 6 may be issued a temporary restricted drivers permit
- 7 by the department allowing the person to drive to
- 8 and from the person's home and place of employment
- 9 and in the course of the person's employment and to
- 10 attend evaluation, treatment or educational services
- 11 for alcohol or drug dependency."
- 12 2. Page 8, by striking lines 4 through 10 and
- 13 inserting in lieu thereof the words "breath, saliva
- 14 or urine is admissable."

H-6339 FILED APRIL 16, 1984

BY ROSENBERG of Scott

N/D 4/19 (p. 2289)

HOUSE FILE 2486

H-6379

- 1 Amend amendment H-6285 to House File 2486 as
- 2 amended, passed, and reprinted by the House as follows:
- 3 1. Page 2, by striking line 29 and inserting in
- 4 lieu thereof the following: "paragraphs:
- 5 NEW UNNUMBERED PARAGRAPH. On conviction for a
- 6 first or second offense in violation of this section,
- 7 the court may order the defendant to perform unpaid
- 8 community service work as a condition of probation
- 9 on the defendant's sentence."

H-6379 FILED APRIL 17, 1984

BY VAN CAMP of Scott

N/D 4/19 (p. 2289)

HOUSE FILE 2486

H-6407

1 Amend the amendment H-6285 to House File 2486 as
2 amended, passed, and reprinted by the House as follows:

3 1. Page 1, by striking everything after line 6
4 and inserting in lieu thereof the following:

5 "NEW SUBSECTION. 4. The department shall adopt
6 rules to establish civil penalties in the amount of
7 one hundred dollars for a first offense, two hundred
8 fifty dollars for a second offense, and five hundred
9 dollars for a third offense which the department
10 shall, subject to the discretion of the director,
11 assess against licensees or permittees for violations
12 of section 123.49 as an alternative to other penalties
13 fixed for such violations by this section. Money
14 collected from penalties assessed under this subsection
15 shall be deposited with the Iowa department of
16 substance abuse for use in substance abuse treatment
17 programs.

18 NEW SUBSECTION. 5. Upon the conviction of a
19 person acting as a vendor, as defined in section
20 123.24, subsection 1, for a violation of section
21 123.47 while in the course of the person's employment
22 at the state liquor store, the director shall dismiss
23 the person from the position as vendor if the person
24 has failed to follow procedures developed by the
25 director to prevent sales to minors.

26 Sec. 2. Section 321.1, Code Supplement 1983, is
27 amended by adding the following new subsections:

28 NEW SUBSECTION. "Alcohol concentration" means
29 the number of grams of alcohol per any of the
30 following:

- 31 a. One hundred milliliters of blood.
- 32 b. Two hundred ten liters of breath.
- 33 c. Sixty-seven milliliters of urine.

34 NEW SUBSECTION. "Alcoholic beverage" includes
35 alcohol, wine, spirits, beer, or any other beverage
36 which contains ethyl alcohol and is fit for human
37 consumption.

38 Sec. 3. Section 321.189, subsection 1, Code 1983,
39 is amended by inserting after unnumbered paragraph
40 1 the following new unnumbered paragraph:

41 NEW UNNUMBERED PARAGRAPH. A motor vehicle license
42 or a nonoperator's identification card issued to a
43 person under nineteen years of age shall be identical
44 in form to any other motor vehicle license or
45 nonoperator's identification card issued to any other
46 person, except that the photograph appearing on the
47 face of the license or card shall be a side profile
48 of the applicant. Upon attaining the age of nineteen,
49 and upon the payment of a one dollar fee, the person
50 shall be entitled to a new motor vehicle license or

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1 nonoperator's identification card for the unexpired
2 months of the motor vehicle license or the
3 nonoperator's identification card. This paragraph
4 is effective for licenses or cards issued after the
5 effective date of this Act.

6 Sec. 4. Section 321.281, subsections 1 and 2,
7 Code 1983, is amended to read as follows:

8 1. A person shall not operate a motor vehicle
9 ~~upon the public highways of~~ in this state in either
10 of the following conditions:

11 a. While under the influence of an alcoholic
12 beverage, ~~a narcotic, hypnotic,~~ or other drug, or
13 ~~any~~ a combination of such substances.

14 b. While having an alcohol concentration of
15 thirteen hundredths or more of one percent by weight
16 ~~of alcohol in the blood.~~

17 2. A person convicted of a violation of this
18 section, upon conviction or a plea of guilty, is
19 guilty of:

20 a. A serious misdemeanor for the first offense
21 and shall be imprisoned in the county jail for not
22 less than forty-eight hours to be served as ordered
23 by the court, less credit for any time the person
24 was confined in a jail or detention facility following
25 arrest and assessed a fine of not less than two hundred
26 fifty dollars nor more than one thousand dollars.
27 As an alternative to the fine, the court may order
28 the person to perform not less than fifty nor more
29 than two hundred hours of unpaid community service.
30 The court may accommodate the sentence to the work
31 schedule of the defendant.

32 b. An aggravated misdemeanor for a second offense
33 and shall be imprisoned in the county jail or
34 community-based correctional facility not less than
35 seven days, which minimum term cannot be suspended
36 notwithstanding section 901.5, subsection 3 and section
37 907.3, subsection 2.

38 c. A class "D" felony for a third offense and
39 each subsequent offense.

40 No conviction for, deferred judgment for, or plea
41 of guilty to, a violation of this section which
42 occurred more than six years prior to the date of
43 the violation charged shall be considered in
44 determining that the violation charged is a second,
45 third or subsequent offense. For the purpose of
46 determining if a violation charged is a second, third,
47 or subsequent offense, a deferred judgment pursuant
48 to section 907.3 for an offense under this section
49 shall be counted as a previous violation.

50 On a conviction for a second or subsequent offense

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1 in violation of this section, the court shall order
2 the defendant to undergo a substance abuse evaluation
3 and the court may order the defendant to follow the
4 recommendations proposed in the substance abuse
5 evaluation for appropriate substance abuse treatment
6 for the defendant. Court ordered substance abuse
7 treatment is subject to the periodic reporting
8 requirements of section 125.86. If a defendant is
9 committed by the court to a substance abuse treatment
10 facility, the administrator of the facility shall
11 report to the court when it is determined that the
12 defendant has received the maximum benefit of treatment
13 at the facility and the defendant shall be released
14 from the facility. The time for which the defendant
15 is committed for treatment shall be credited against
16 the defendant's sentence. The court may prescribe
17 the length of time for the evaluation and treatment
18 or it may request that the hospital to which the
19 person is committed immediately report to the court
20 when the person has received maximum benefit from
21 the program of the hospital or institution or has
22 recovered from the person's addiction, dependency,
23 or tendency to chronically abuse alcohol or drugs.
24 A person committed under this section who does not
25 possess sufficient income or estate to make payment
26 of the costs of the treatment in whole or in part
27 shall be considered a state patient and the costs
28 of treatment shall be paid as provided in section
29 125.44. A defendant who fails to carry out the order
30 of the court or who fails to successfully complete
31 or attend an ordered substance abuse treatment program
32 shall be confined in the county jail for twenty days
33 in addition to any other imprisonment ordered by the
34 court or may be ordered to perform unpaid community
35 service work, and shall be placed on probation for
36 one year with a violation of this probation punishable
37 as contempt of court.

38 Sec. 5. Section 321.281, subsections 7 and 8,
39 Code 1983, are amended to read as follows:

40 7. This section does not apply to a person
41 operating a motor vehicle while under the influence
42 of a ~~narcotic, hypnotic, or other~~ drug if such
43 ~~substances were~~ the substance was prescribed for the
44 person and ~~were~~ was taken under the prescription and
45 in accordance with the directions of a medical
46 practitioner as defined in section 155.3, subsection
47 11, if there is no evidence of the consumption of
48 alcohol and the medical practitioner had not directed
49 the person to refrain from operating a motor vehicle.

50 8. In any prosecution under this section, evidence

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1 of the results of analysis of a specimen of the
2 defendant's blood, breath, ~~saliva~~, or urine is
3 admissible upon proof of a proper foundation. In
4 an action in which a violation ~~of~~ by the means
5 described in subsection 1, paragraph "a" of this
6 section is alleged, evidence that ~~there was, at the~~
7 ~~time, the defendant had an alcohol concentration of~~
8 ~~ten hundredths or more of one percent by weight of~~
9 ~~alcohol in the defendant's blood~~ is presumptive
10 evidence that the defendant was under the influence
11 of an alcoholic beverage.

12 Sec. 6. Section 321.281, subsection 9, Code 1983,
13 is amended by adding the following new paragraphs:
14 NEW PARAGRAPH. d. Upon a plea or verdict of
15 guilty of a violation of this section during the
16 occurrence of which there was an accident causing
17 a serious injury in which the defendant was judged
18 to be at fault, the court in which the plea was entered
19 or the verdict was returned shall order that the
20 defendant's license or permit to operate motor vehicles
21 be revoked by the department and that the defendant
22 shall remain ineligible for a new license or permit
23 for a period of one year in addition to any other
24 period of suspension. Any license or permit to operate
25 motor vehicles held by the defendant shall be
26 surrendered to the court who shall forward it to the
27 department with a copy of the order for revocation.
28 A person whose license to operate a motor vehicle
29 has been revoked pursuant to this subsection may be
30 issued a temporary restricted driving permit by the
31 department allowing the person to drive to and from
32 the person's home and place of employment and in the
33 course of the person's employment upon the completion
34 by the defendant of a substance abuse evaluation
35 under section 125.33 and completion of a program of
36 treatment if recommended.

37 NEW PARAGRAPH. e. Upon a plea or verdict of
38 guilty of a violation of this section during the
39 occurrence of which there was an accident which caused
40 a loss of life for which the defendant was judged
41 to be at fault, the court in which the plea was entered
42 or the verdict was returned shall order that the
43 defendant's license or permit to operate motor vehicles
44 be revoked by the department and that the defendant
45 for a period of six years shall not be eligible for
46 a new license or permit. Any license or permit to
47 operate motor vehicles held by the defendant shall
48 be surrendered to the court who shall forward it to
49 the department with a copy of the order for revocation.
50 Sec. 7. Section 321.281, Code 1983, is amended

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1 by adding the following new subsection:

2 NEW SUBSECTION. 10. The court shall order a
3 defendant convicted of a violation of this section
4 to make restitution for damages resulting directly
5 from the violation.

6 Sec. 8. Section 321.281, Code 1983, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. If a defendant is convicted of
9 a first offense of this section and the defendant's
10 license or permit to operate a motor vehicle is revoked
11 under section 321.209 or chapter 321B for the
12 occurrence from which the arrest arose, the period
13 of revocation shall be the period provided for such
14 a revocation or until the defendant reaches the age
15 of nineteen whichever period is longer. A person
16 whose license to operate a motor vehicle is revoked
17 pursuant to this subsection may be issued a temporary
18 restricted driving permit by the department allowing
19 the person to drive to and from the person's home
20 and place of employment or school and in the course
21 of the person's employment and to attend evaluation,
22 treatment or educational services for alcohol or drug
23 dependency.

24 Sec. 9. Section 321B.1, Code 1983, is amended
25 to read as follows:

26 321B.1 DECLARATION OF POLICY. The general assembly
27 declares that this chapter is necessary to aid the
28 enforcement of laws prohibiting operation of a motor
29 vehicle while under the influence of an alcoholic
30 beverage, ~~a narcotic, hypnotic, or other drug or any~~
31 a combination of such substances, or while having
32 an alcohol concentration of a certain amount of alcohol
33 ~~in the blood~~ or more.

34 Sec. 10. Section 321B.2, unnumbered paragraph
35 2, Code 1983, is amended to read as follows:

36 As used in this chapter and sections 29B.106,
37 ~~321.209, and 321.281, 321.494 and 690.2~~ the words
38 "alcoholic beverage" ~~include and~~ alcohol, ~~wine,~~
39 ~~spirits, beer, or any other beverage which contains~~
40 ~~ethyl alcohol and is fit for human consumption~~
41 concentration means as defined in section 321.1.

42 Sec. 11. Section 321B.4, subsection 1, unnumbered
43 paragraph 1, Code 1983, is amended to read as follows:

44 Any person who operates a motor vehicle in this
45 state ~~upon a public highway~~ under circumstances which
46 give reasonable grounds to believe that the person
47 ~~to have~~ has been operating a motor vehicle in violation
48 of section 321.281, is deemed to have given consent
49 to the withdrawal of specimens of the person's blood,
50 breath, ~~saliva,~~ or urine, and to a chemical test or

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1 tests of the specimens for the purpose of determining
2 the ~~alcoholic-content-of-the-blood~~ alcohol
3 concentration or presence of drugs, subject to this
4 section. The withdrawal of the body substances and
5 the test or tests shall be administered at the written
6 request of a peace officer having reasonable grounds
7 to believe that the person ~~to-have-been~~ was operating
8 a motor vehicle in violation of section 321.281, and
9 if any of the following conditions exist:

10 Sec. 12. Section 321B.4, subsection 1, paragraph
11 d, Code 1983, is amended to read as follows:

12 d. The preliminary breath screening test was
13 administered and it ~~recorded~~ indicated an alcohol
14 concentration of ten hundredths or more of one-percent
15 by-weight-of-alcohol-in-the-blood.

16 Sec. 13. Section 321B.12, Code 1983, is amended
17 by striking the section and inserting in lieu thereof
18 the following:

19 321B.12 STATEMENT OF OFFICER. A person who has
20 been requested to submit to a chemical test shall
21 be advised by a peace officer of the following:

22 1. If the person refuses to submit to the test,
23 the person's license or operating privilege will be
24 revoked by the department for the applicable period
25 under section 321B.13.

26 2. If the person submits to the test and the
27 results indicate an alcohol concentration of ten
28 hundredths or more, the person's license or operating
29 privilege will be revoked by the department for the
30 applicable period under section 321B.16.

31 This section does not apply in any case involving
32 a person described in section 321B.11.

33 Sec. 14. Section 321B.15, Code 1983, is amended
34 to read as follows:

35 321B.15 TAKING SAMPLE FOR TEST. Only a licensed
36 physician, physician's assistant as defined in section
37 148C.1, subsection 6, medical technologist or
38 registered nurse, acting at the request of a peace
39 officer, may withdraw ~~body-substances~~ a specimen of
40 blood for the purpose of determining the ~~alcoholic~~
41 ~~or-drug-content-of-the-person's-blood~~ alcohol
42 concentration or the presence of drugs. However,

43 any peace officer, using devices and methods approved
44 by the commissioner of public safety, may take a
45 specimen of a person's breath or urine for the purpose
46 of determining the ~~alcoholic-or-drug-content-of-the~~
47 ~~person's-blood~~ alcohol concentration or the presence
48 of drugs. Only new, originally factory wrapped,
49 disposable syringes and needles, kept under strictly
50 sanitary and sterile conditions shall be used for

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1 drawing blood.

2 PARAGRAPH DIVIDED. The person may have an
3 independent chemical test or tests administered by
4 a person of the person's own choosing and at the
5 person's own expense in addition to any administered
6 at the direction of a peace officer. The failure
7 or inability of the person to obtain an independent
8 chemical test or tests does not preclude the admission
9 in of evidence of the results of the test or tests
10 taken administered at the direction of the peace
11 officer. Upon the request of the person who is tested,
12 the results of the test or tests taken administered
13 at the direction of the peace officer shall be made
14 available to the person.

15 Sec. 15. Section 321B.16, Code 1983, is amended
16 to read as follows:

17 321B.16 TEST RESULT REVOCATION. Upon certification
18 by the peace officer that there existed reasonable
19 grounds to believe that the person ~~to-have had~~ been
20 operating a motor vehicle in violation of section
21 321.281, that there existed one or more of the
22 necessary conditions for chemical testing described
23 in section 321B.4, subsection 1, and that the person
24 submitted to chemical testing and the test results
25 ~~indicate~~ indicated an alcohol concentration of ten
26 hundredths or more ~~of-one-percent-by-weight-of-alcohol~~
27 ~~in-the-person's-blood~~, the department shall revoke
28 the person's license or permit to drive or nonresident
29 operating privilege for a period of one hundred ~~twenty~~
30 ~~eighty~~ days if the person has had no revocation within
31 the previous six years under section 321.209,
32 subsection 2, section 321.281 or this chapter, ~~two~~
33 ~~hundred-forty-days-if-the-person-has-one-previous~~
34 ~~revocation-under-these-provisions~~, and one year if
35 the person has ~~two~~ had one or more previous revocations
36 under those provisions arising from separate
37 occurrences.

38 The effective date of the revocation shall be
39 twenty days after the department has mailed notice
40 of revocation to the person by certified mail ~~or~~
41 ~~on-behalf-of-the-department,-a.~~ The peace officer
42 ~~offering-a-chemical-test-or-directing~~ who requested
43 or directed the administration of a the chemical test
44 may, on behalf of the department, serve immediate
45 notice ~~of-intention-to-revoke-and~~ of revocation on
46 a person ~~when-the-person's~~ whose test results ~~indicate~~
47 indicated an alcohol concentration of ten hundredths
48 or more ~~of-one-percent-by-weight-of-alcohol-in-the~~
49 blood.

50 If the peace officer serves that immediate notice,

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1 the peace officer shall take the person's Iowa license
2 or permit ~~of-the-driver~~, if any, and issue a temporary
3 license valid only for twenty days. The peace officer
4 shall immediately send the person's driver's license
5 to the department along with ~~an-affidavit-stating~~
6 the officer's certificate indicating that the test
7 results indicate indicated an alcohol concentration
8 of ten hundredths of-one-percent or more by-weight
9 ~~of-alcohol-in-the-person's-blood~~.

10 The department may, on application, issue a
11 temporary restricted license to a the person whose
12 license has been revoked ~~under-this-section~~ when the
13 person's regular employment includes the operation
14 of a motor vehicle or ~~who~~ the person cannot perform
15 his or her regular occupation without the use of a
16 motor vehicle, or when the person's use of a motor
17 vehicle is necessary to attend evaluation, treatment
18 or educational services for alcohol or drug dependency,
19 but the person shall not operate a vehicle for pleasure
20 while holding a restricted license. However, this
21 paragraph does not apply to a person whose license
22 is suspended or revoked for another reason.

23 Sec. 16. Section 321B.26, Code 1983, is amended
24 to read as follows:

25 321B.26 HEARING. Upon the written request of
26 a person whose privilege to drive has been revoked
27 or denied, or who has been issued a twenty-day license
28 pursuant to section 321B.13 or section 321B.16, the
29 department shall grant the person an opportunity to
30 be heard within twenty days after the receipt of the
31 request, but the request must be made within ten days
32 of the effective date of revocation or denial of
33 driving privileges or the issuance of a temporary
34 ~~permit~~ license. The hearing shall be before the
35 department in the county where the alleged events
36 occurred, unless the director and the person agree
37 that the hearing may be held in some other county.
38 The hearing may be recorded and its scope shall ~~ever~~
39 be limited to the issues of whether a peace officer
40 had reasonable grounds to believe that the person
41 ~~to-have-been~~ was operating a motor vehicle in violation
42 of section 321.281~~7~~7~~-whether~~ and either of the
43 following:

44 a. Whether the person refused to submit to the
45 test or tests~~7~~.

46 b. Whether a test was administered and the test
47 results if-a-person-consented-to-a-test-and-whether
48 the-person-should-be-issued-a-temporary-restricted
49 license indicated an alcohol concentration of ten
50 hundredths or more.

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1 PARAGRAPH DIVIDED. The department shall order
2 that the revocation or denial be either rescinded
3 or sustained.
4 Sec. 17. Section 321B.28, Code 1983, is amended
5 to read as follows:
6 321B.28 EVIDENCE IN ANY ACTION. Upon the trial
7 of any civil or criminal action or proceeding arising
8 out of acts alleged to have been committed by ~~any~~
9 a person while operating a motor vehicle in violation
10 of section 321.281, evidence of the ~~amount-of~~ alcohol
11 concentration or the presence of drugs in the person's
12 ~~blood~~ body substances at the time of the act alleged
13 as shown by a chemical analysis of the person's blood,
14 breath, ~~saliva~~ or urine is admissible. If it is
15 established at trial that an analysis of a breath
16 specimen was performed by a certified operator using
17 a device and methods approved by the commissioner
18 of public safety, no further foundation is necessary
19 for introduction of the evidence.
20 Sec. 18. NEW SECTION. 321B.30 CIVIL PENALTY-
21 -VICTIM REPARATION FUND. When the department revokes
22 a person's license or operating privilege under this
23 chapter, the department shall assess the person a
24 civil penalty of one hundred dollars. The money
25 collected by the department under this section shall
26 be transmitted to the treasurer of state who shall
27 deposit the money in a separate fund dedicated to
28 and used for the purposes of chapter 912. A temporary
29 restricted license shall not be issued or a license
30 or privilege to drive reinstated until the civil
31 penalty has been paid.
32 Sec. 19. Section 907.4, Code 1983, is amended
33 to read as follows:
34 907.4 DEFERRED JUDGMENT DOCKET. Any deferment
35 of judgment under section 907.3 shall be reported
36 promptly by the clerk of the district court to the
37 supreme court administrator who shall maintain a
38 permanent record thereof including the name of the
39 defendant, the district court docket number, the
40 nature of the offense, and the date of the deferment.
41 Before granting deferment in any case, the court shall
42 request of the supreme court administrator a search
43 of the deferred judgment docket and shall consider
44 any prior record of a deferment of judgment against
45 the defendant. The permanent record provided for
46 in this section shall constitute a confidential record
47 exempted from public access under section 68A.7 and
48 shall be available only to justices of the supreme
49 court, judges of the court of appeals, district judges,
50 district associate judges, and judicial magistrates,

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1 and county attorneys requesting information pursuant
2 to this section or the designee of such justice,
3 judge, ~~or~~ magistrate, or county attorney.

4 Sec. 20. Section 912.1, subsection 4, Code 1983,
5 is amended to read as follows:

6 4. "Crime" means conduct that occurs or is
7 attempted in this state, poses a substantial threat
8 of personal injury or death, and is punishable as
9 a felony, an aggravated misdemeanor, or a serious
10 misdemeanor, or would be so punishable but for the
11 fact that the person engaging in the conduct lacked
12 the capacity to commit the crime under the laws of
13 this state. "Crime" does not include conduct arising
14 out of the ownership, maintenance, or use of a motor
15 vehicle, motorcycle, motorized bicycle, train, boat,
16 or aircraft except for violations of section 321.281
17 or when the intention is to cause personal injury
18 or death. A plea or verdict of guilty of a charge
19 under section 321.281 or a license revocation under
20 section 321B.13 or 321B.16 shall be considered by
21 the department as evidence of a violation of section
22 321.281 for the purposes of this chapter.

23 Sec. 21. Section 912.6, Code 1983, is amended
24 to read as follows:

25 912.6 COMPUTATION OF REPARATION. The commissioner
26 shall make reparation, as appropriate, for any of
27 the following economic losses incurred as a direct
28 result of an injury to or death of the victim, ~~not~~
29 ~~to exceed two thousand dollars per victim unless~~
30 ~~otherwise specified:~~

31 1. Reasonable charges incurred for medical care
32 not to exceed ten thousand dollars.

33 2. Loss of income from work the victim would have
34 performed and for which the victim would have received
35 compensation ~~for~~ if the victim had not been injured
36 not to exceed two thousand dollars.

37 3. Reasonable replacement value of clothing that
38 is held for evidentiary purposes, ~~but~~ not to exceed
39 one hundred dollars.

40 4. Reasonable funeral and burial expenses not
41 to exceed ~~one~~ two thousand five hundred dollars.

42 5. Loss of support for dependents resulting from
43 death or a period of disability of the victim of sixty
44 days or more not to exceed two thousand dollars per
45 dependent or a total of six thousand dollars.

46 Sec. 22. Chapter 912, Code 1983, is amended by
47 adding the following new section:

48 NEW SECTION. VICTIM REPARATION FUND. The money
49 collected and deposited under section 321B.30 and
50 remaining in the fund at the end of any annual or

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1 biennial period shall not revert to the state general
2 fund but shall remain available for the payment of
3 claims under this chapter. This fund is in addition
4 to and may be supplemented by appropriations from
5 the general assembly for the payment of claims or
6 operational expenses of the program.

7 Sec. 23. Section 912.13, Code 1983, is repealed.

8 Sec. 24. Section 23 of this Act, being deemed
9 of immediate importance, takes effect from and after
10 the Act's publication in the Onawa Democrat, a
11 newspaper published in Onawa, Iowa and in the Diamond
12 Trail News, a newspaper published in Sully, Iowa.

13 Sec. 25. STUDY COMMITTEE CREATED.

14 1. There is established a committee to study the
15 laws and penalties relating to operating motor vehicles
16 while intoxicated composed of nine members. The
17 members shall be appointed as follows:

18 a. The chief justice of the supreme court shall
19 select one judge to be a member and chair the
20 committee.

21 b. The Iowa county attorneys association shall
22 select one member of their organization as a member.

23 c. The Iowa public defenders association shall
24 select one member of their organization as a member.

25 d. The department of public safety shall select
26 an employee as a member.

27 e. The department of transportation shall select
28 an employee of that department as a member.

29 f. The Iowa department of substance abuse shall
30 select an employee as a member.

31 g. The legislative council shall select an attorney
32 experienced in the defense of those charged with
33 driving while intoxicated as a member.

34 h. The legislative council shall select a person
35 with professional experience in substance abuse
36 treatment as a member.

37 i. The legislative council shall appoint one
38 member of the legislature as a member.

39 All members of the study committee shall be
40 appointed not later than thirty days from the effective
41 date of this Act. The study committee shall hold
42 its organizational meeting not more than thirty days
43 following the appointment of its membership.

44 2. Public members of the study committee shall
45 receive a per diem of forty dollars and be reimbursed
46 for their travel and other necessary expenses actually
47 incurred in the performance of their official duties.
48 Public employees who are members of the study committee
49 shall be reimbursed for travel and other expenses
50 actually incurred in the performance of their official

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1 duties.

2 3. The study committee shall conduct a
3 comprehensive study of the laws and penalties presently
4 in the Code relating to the operation of a motor
5 vehicle by a person who is intoxicated and make
6 recommendations for any changes in the law the
7 committee deems necessary. The study committee may
8 request assistance of any state or local government
9 agency to obtain any data or other information which
10 the study committee deems necessary to carry out its
11 duties. The state and local government agencies shall
12 provide any assistance requested by the study
13 committee.

14 4. The study committee may request that the
15 legislative council provide staff for the study
16 committee from the staff of the legislative service
17 bureau and the legislative fiscal bureau.

18 5. The study committee shall transmit copies of
19 its final report to the general assembly on January
20 14, 1985. The final report shall include findings
21 of fact and its recommendations and relevant data
22 gathered by and for the committee.

23 Sec. 26. The beer and liquor control commission
24 shall submit to the general assembly on January 14,
25 1985, its recommendations for a revised schedule of
26 civil penalties to be assessed upon licensees or
27 permittees in the alternative to other penalties for
28 violations of section 123.49 as established in section
29 1 of this Act. The proposed schedule of civil
30 penalties shall be graduated on a proportional basis
31 on both the annual dollar amount of beer and liquor
32 sales conducted by the licensee or permittee and on
33 the order of the violation as a first, second, or
34 third offense."

35 2. Title page, by striking lines 1 through 5 and
36 inserting in lieu thereof the following: "An Act
37 relating to the offense of operating a motor vehicle
38 while intoxicated by providing civil penalties to
39 be assessed against licensees or permittees, by
40 requiring the dismissal of vendors for selling alcohol
41 to a minor, by providing a definition of alcohol con-
42 centration, by providing a special license for persons
43 age nineteen and under, by providing a fine or
44 community service in addition to imprisonment for
45 a first offense and requiring a substance abuse
46 evaluation for a second or subsequent offense of
47 operating a motor vehicle while intoxicated, by
48 providing additional periods of revocation for drivers
49 convicted of operating a motor vehicle while
50 intoxicated who caused an accident in which there

HOUSE FILE 2486
AMENDMENT H-6448
FISCAL NOTE
REQUESTED BY REPRESENTATIVE MCKEAN

In compliance with a written request received April 19, 1984, there is hereby submitted a Fiscal Note for AMENDMENT H-6448 TO H.F. 2486 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the General Assembly upon request.

Amendment H-6448 to H.F. 2486 impacts the general fund in both additional revenues and expenditures. Following is a detailed assessment of the fiscal impact of this amendment.

CHANGES TO FINES AND FEES. H-6448 changes the following fees and fines, all of which are deposited in the state general fund:

- o Raises the fee collected for the reinstatement of a driver's license to \$50. Currently, the cost ranges for \$0 for some individuals to \$20. The net impact on the general fund would be an increase of \$594,880.
- o Requires that an additional \$50 be assessed to OMVUI violators who seek reinstatement of their driver's license. The estimated revenue to the general fund is \$730,500.
- o Allows OMVUI violators who participate in evaluation or treatment programs to obtain a temporary restricted driving permit to and from work for a fee of \$10. Currently, the work permits are issued with no charge. In calendar year 1983, 4,600 permits were issued to persons whose license were suspended for an OMVUI violation. The estimated revenue to the general fund from this fee is estimated at \$46,000.
- o Imposes a fine of at least \$500 for persons convicted of a first offense, \$800 for 2nd offense, and \$1,000 for 3rd and subsequent offense OMVUI violations. Assuming that 50% of the persons fined will be able to pay these fines, the estimated impact would be \$5,015,560. This estimate includes the 10% surcharge on criminal fines that is currently in state statute.
- o Requires that a \$100 civil fine be imposed when the Department of Transportation revokes a persons driving privileges due to an OMVUI violation. The estimated impact on the state general fund is \$1,461,510.

IMPACT ON FEDERAL FUNDS. By lowering the blood alcohol concentration from 0.13 to 0.10 percent it may be possible for the state to qualify for the Section 408 Alcohol Traffic Safety Incentive grant. The estimated impact would be an increase in federal funds to the state of \$2.5 million over the next 3 year period.

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PROGRAM EXPANSIONS AND CHANGES. H-6448 is expected to increase the costs of the following state funded programs:

- o Substance Abuse Evaluations and Treatment. The court may order an OMVUI violator to undergo substance abuse evaluations and any treatment that is recommended by the evaluation. Assuming that most persons who are convicted of a second OMVUI offense would be ordered to undergo a substance abuse evaluation and any recommended treatment the estimated cost would be as follows: \$33,635 for the initial evaluation; \$223,000 for inpatient treatment; and \$204,848 for outpatient treatment for a net cost to the general fund of \$461,483.

In addition, all second time offenders who wish to apply for early reinstatement of the driver's license are required to undergo a substance abuse evaluation within the preceding thirty days of the application. Assuming the 25% of these offenders who apply for reinstatement would be unable to pay the costs of the evaluation, it would cost the state approximately \$33,635.

- o **Victim Reparation.** The limit of \$2,000 per victim is eliminated and the following changes are made to the specific benefits: a maximum of \$10,000 for medical care, \$2,000 for loss of work income, \$2,500 for funeral expenses, and \$6,000 for loss of support of dependents resulting from death or a period of disability of the victim. While this is expected to increase the costs of this program, it is not possible to estimate the net impact due to a lack of data.
- o **Study Committee.** The amendment continues to require that a study committee be established to study the laws and penalties relating to OMVUI that is contained in H-6285. Assuming that the study committee meets twice a month for four months (September through December), the cost for the four non-public employees would be \$3,300.

IMPACT ON COUNTY JAILS. Several provisions in the bill is expected to have an impact on county jail populations and expenses. However, due to lack of county information it is not possible to prepare an estimate of this impact. The provisions of charging up to \$40 per day for jail incarceration of OMVUI violators should help to reduce the county expenses.

The following tables show the impact of these provisions on the revenues and expenses to the state, as well as the cost to the OMVUI violator.

Table 1

<u>Cost to OMVUI Offender</u>			
<u>Fines</u>		<u>Total Offender Expenses</u>	
1st offense	\$ 500	First Offense	\$ 840
2nd offense	\$ 800	Second Offense	\$1,370
3rd offense	\$1,000	Third Offense	\$2,510
Reinstatement fees	\$ 50		
Additional Reinstatement fees	\$ 50		
Temporary License Fee	\$ 10		
Victim Reparation Fee	\$ 100		
Jail Imprisonment - \$40/day			
1st offense - 7 days	\$ 280		
2nd offense - 7 days	\$ 280		
3rd offense - 30 days	\$ 1,200		

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Table 2

<u>Impact on General Fund</u>	
<u>Revenues</u>	
Fines (Includes 10% surcharge)	\$5,015,560
Reinstatement fee	594,880
Additional Reinstatement fee	730,500
Temporary License fees	46,000
Victim Reparation fee	1,461,510
TOTAL Revenues	\$7,848,450
<u>Expenses</u>	
Initial Substance Abuse Evaluation	\$ 33,635
Inpatient Treatment	233,000
Outpatient Treatment	204,848
Follow-up Evaluation	33,635
Study Committee	3,300
Reparation Costs	unknown ¹
TOTAL Expenses	\$ 498,418 ¹

Net Impact \$7,350,032¹
¹ Excludes increased cost to Victim Reparation program.

Source: Dept. of Transportation (3974H.09,84-342,DAW)

Dept. of Substance Abuse
 Court

FILED APRIL 19, 1984

Administrator

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2486

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1 Amend the amendment H-6285 to House File 2486 as
2 amended, passed, and reprinted by the House as follows:

3 1. Page 1, by striking lines 5 through 35.

4 2. Page 2, by inserting after line 15 the
5 following:

6 "Sec. _____. Section 321.191, unnumbered paragraph
7 2, Code 1983, is amended to read as follows:

8 There shall be a fee of ~~twenty~~ fifty dollars for
9 reinstatement of a chauffeur's license or operator's
10 license which is, after notice and opportunity for
11 hearing, suspended or revoked pursuant to sections
12 321.193, 321.209 and 321.210, except subsection 4
13 thereof, 321.513, 321.560, 321A.6, and chapter 321B.
14 ~~The twenty-dollar fee shall be collected only if the~~
15 ~~person whose license was suspended or revoked was~~
16 ~~served personally with notice. If the person whose~~
17 ~~license was suspended or revoked was served notice~~
18 ~~by certified mail, the reinstatement fee shall be~~
19 ~~ten dollars.~~

20 Sec. _____. Section 321.213, Code 1983, is amended
21 to read as follows:

22 321.213 LICENSE SUSPENSIONS OR REVOCATIONS DUE
23 TO VIOLATIONS BY JUVENILE DRIVERS. Upon the ~~entering~~
24 entry of an order at the conclusion of an adjudicatory
25 hearing under section 232.47 that the child violated
26 a provision of this chapter or chapter 321A or 321B
27 for which the penalty is greater than a simple
28 misdemeanor, ~~or that the child refused to submit to~~
29 ~~chemical testing under section 321B.4,~~ the clerk of
30 the juvenile court in the adjudicatory hearing shall
31 forward a copy of the adjudication to the department.
32 Notwithstanding section 232.55, a final adjudication
33 in a juvenile court that the child violated a provision
34 of this chapter or chapter 321A or 321B constitutes
35 a final conviction of a the respective violation of
36 ~~a provision of this chapter or chapter 321A~~ for
37 purposes of section 321.189, subsection 2, paragraph
38 "b", and sections 321.193, 321.194, 321.200, 321.209,
39 321.210, 321.215, and 321A.17. ~~Notwithstanding section~~
40 ~~232.55, the director shall revoke the license or~~
41 ~~permit of a child under section 321B.13 upon receipt~~
42 ~~of a copy of the final adjudication in a juvenile~~
43 ~~court that the child refused to submit to chemical~~
44 ~~testing under section 321B.4."~~

45 3. By striking page 2, line 16 through page 3,
46 line 17 and inserting in lieu thereof the following:

47 "Sec. _____. Section 321.281, subsections 1 and
48 2, Code 1983, are amended to read as follows:

49 1. A person shall not operate a motor vehicle
50 ~~upon the public highways of~~ in this state in either

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1 of the following conditions:

2 a. While under the influence of an alcoholic
3 beverage, ~~a narcotic, hypnetic,~~ or other drug, or
4 any a combination of such substances.

5 b. While having ~~thirteen~~ an alcohol concentration
6 of ten hundredths or more ~~of one percent by weight~~
7 ~~of alcohol in the blood.~~

8 2. A person ~~convicted~~ who pleads or is found
9 guilty of a violation of this section, ~~upon conviction~~
10 ~~or a plea of guilty, is guilty of~~ shall be sentenced
11 upon conviction for:

12 a. A serious misdemeanor for the first offense
13 and shall be fined not less than five hundred dol-
14 lars and imprisoned in the county jail for not less
15 than forty-eight hours, less credit for any time the
16 person was confined in a jail or detention facility
17 following arrest. The court cannot suspend the minimum
18 fine or term of forty-eight hours, notwithstanding
19 section 901.5, subsection 3, and section 907.3, sub-
20 section 2, but the court may accommodate the sentence
21 to the work schedule of the defendant.

22 b. An aggravated misdemeanor for a second offense
23 and shall be fined not less than eight hundred dollars
24 and imprisoned in the county jail or community-based
25 correctional facility not less than seven days, which
26 minimum fine and term cannot be suspended,
27 notwithstanding section 901.5, subsection 3, and
28 section 907.3, subsection 2.

29 c. A class "D" felony for a third ~~offense and~~
30 ~~each~~ or subsequent offense and shall be fined not
31 less than one thousand dollars and, in addition, shall
32 be imprisoned in the county jail or a community-based
33 correctional facility for a determinate term of not
34 less than thirty nor more than one hundred eighty
35 days as a condition of probation if the court suspends
36 the indeterminate term prescribed by section 902.9,
37 subsection 4.

38 No conviction for, or plea of guilty to, a violation
39 of this section ~~which occurred more than six years~~
40 ~~prior to the date of the violation charged~~ or a
41 violation of a corresponding statute of any other
42 state that would have been a violation of this section
43 if it had occurred in this state shall be considered
44 in determining that the violation charged is a second,
45 third or subsequent offense if that previous violation
46 occurred more than six years prior to the date of
47 the violation charged.

48 Sec. ____ Section 321.281, subsection 3, Code
49 1983, is amended by striking the subsection and
50 inserting in lieu thereof the following:

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1 3. A person shall be punished for only one
2 violation of this section based on each occurrence
3 but either or both of the alternative means described
4 in subsection 1 may be proved at trial.

5 Sec. _____. Section 321.281, subsection 6, Code
6 1983, is amended by striking the subsection."

7 4. Page 3, by inserting after line 41 the
8 following:

9 "Sec. _____. Section 321.281, subsection 9, Code
10 1983, is amended to read as follows:

11 9. a. Upon a plea or verdict of guilty of a ~~third~~
12 second or subsequent violation of this section, the
13 court in which the plea was entered or the verdict
14 was returned shall order that the defendant's license
15 or permit to operate motor vehicles be revoked by
16 the department and that the defendant shall remain
17 ineligible for a new license or permit for a period
18 of ~~six~~ five years. Any license or permit to operate
19 motor vehicles held by the defendant shall be
20 surrendered to the court who shall forward it to the
21 department with a copy of the order for revocation.

22 b. After ~~two-years~~ one year from the date of the
23 order for revocation, the defendant may apply to the
24 court for restoration of the defendant's eligibility
25 for a license or permit to operate motor vehicles.
26 The application may be granted only if all of the
27 following are shown by the defendant by a preponderance
28 of the evidence:

29 (1) The defendant has completed an evaluation
30 and, if recommended by the evaluation, a program of
31 treatment for chemical dependency, and ~~is-recovering,~~
32 ~~or~~ has ~~substantially~~ recovered, from that dependency
33 on or tendency to abuse alcohol or drugs, and an
34 evaluation within the preceding thirty days indicates
35 no further treatment is required.

36 (2) The defendant has not been convicted, since
37 the date of the revocation order, of any subsequent
38 violations of this section or section 123.46, or any
39 comparable city or county ordinance, and the defendant
40 has not, since the date of the revocation order,
41 submitted to a chemical test under chapter 321B that
42 indicated ten hundredths or more of one percent by
43 weight of alcohol in the person's blood or refused
44 to submit to chemical testing under that chapter.

45 (3) The defendant has abstained from the excessive
46 consumption of alcoholic beverages and the consumption
47 of controlled substances, except at the direction
48 of a licensed physician or pursuant to a valid
49 prescription.

50 (4) The defendant's license or permit is not

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1 currently subject to suspension or revocation for
2 any other reason.

3 c. The court shall forward to the department a
4 record of any application submitted under paragraph
5 "b" and the results of the court's disposition of
6 the application.

7 d. Upon a plea or verdict of guilty of a violation
8 of this section during the occurrence of which there
9 was an accident causing a serious injury in which
10 the defendant was judged to be at fault, the court
11 in which the plea was entered or the verdict was
12 returned shall order that the defendant's license
13 or permit to operate motor vehicles be revoked by
14 the department and that the defendant shall remain
15 ineligible for a new license or permit for a period
16 of one year in addition to any other period of
17 suspension. Any license or permit to operate motor
18 vehicles held by the defendant shall be surrendered
19 to the court who shall forward it to the department
20 with a copy of the order for revocation. A person
21 whose license to operate a motor vehicle has been
22 revoked pursuant to this subsection may be issued
23 a temporary restricted driving permit by the department
24 allowing the person to drive to and from the person's
25 home and place of employment and in the course of
26 the person's employment upon the completion by the
27 defendant of a substance abuse evaluation under section
28 125.33 and completion of a program of treatment if
29 recommended.

30 e. Upon a plea or verdict of guilty of a violation
31 of this section during the occurrence of which there
32 was an accident which caused a loss of life for which
33 the defendant was judged to be at fault, the court
34 in which the plea was entered or the verdict was
35 returned shall order that the defendant's license
36 or permit to operate motor vehicles be revoked by
37 the department and that the defendant shall never
38 be eligible for a new license or permit. Any license
39 or permit to operate motor vehicles held by the
40 defendant shall be surrendered to the court who shall
41 forward it to the department with a copy of the order
42 for revocation."

43 5. By striking page 3, line 48 through page 4,
44 line 7 and inserting in lieu thereof the following:

45 "Sec. ____ . Section 321.281, Code 1983, is amended
46 by adding the following new subsections:

47 NEW SUBSECTION. If a defendant is convicted of
48 or adjudicated under chapter 232, division II for
49 a first offense of this section and the defendant's
50 license or permit to operate a motor vehicle is revoked

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1 under section 321.209 or chapter 321B for the
2 occurrence from which the arrest arose, the period
3 of revocation shall be the period provided for such
4 a revocation or until the defendant reaches the age
5 of nineteen whichever period is longer.

6 NEW SUBSECTION. A person whose license to operate
7 a motor vehicle is revoked because the person has
8 been convicted or has pleaded guilty to a violation
9 of section 321.281 or is revoked under subsection
10 6 of that section shall pay a fifty dollar fee in
11 addition to the reinstatement fee provided in section
12 321.191 upon an application by the person for
13 reinstatement of the person's license to operate a
14 motor vehicle.

15 NEW SUBSECTION. The court may assess as court
16 costs the cost of imprisoning a person for the minimum
17 sentence required for a conviction of a violation
18 of this section. The cost of imprisonment may not
19 exceed a maximum of forty dollars per day.

20 Sec. _____. Section 321.282, Code 1983, is amended
21 to read as follows:

22 321.282 VIOLATIONS. A person whose license or
23 privilege to operate is revoked or denied because
24 the person has been convicted or has pleaded or been
25 found guilty ~~to~~ of a violation of section 321.281
26 or is revoked under subsection 6 of that section who
27 ~~is found driving~~ drives or operating any operates
28 a motor vehicle ~~upon a highway~~ in this state while
29 the license or privilege is revoked or denied ~~is~~
30 ~~guilty of~~ commits a serious misdemeanor and,
31 notwithstanding section 907.3, shall be imprisoned
32 in the county jail not less than seven days for a
33 first offense under this section and not less than
34 thirty days for a second or subsequent offense under
35 this section.

36 Sec. _____. Section 321.283, Code 1983, is amended
37 by striking the section and inserting in lieu thereof
38 the following:

39 321.283 TREATMENT OR INSTRUCTION FOR DRINKING
40 DRIVERS.

41 1. As used in this section, unless the context
42 otherwise requires:

43 a. "Course for drinking drivers" means an approved
44 course designed to inform the offender about drinking
45 and driving and encourage the offender to assess the
46 driver's drinking and driving behavior in order to
47 select practical alternatives.

48 b. "Satisfactory completion of a course" means
49 receipt of a grade of "C" or "2.0" or better from
50 the course instructor at the completion of the course.

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1 2. After a conviction for, or a plea of guilty
2 of, a violation of section 321.281, the court in
3 addition to its power to commit the defendant for
4 treatment of alcoholism under section 321.281, may
5 in lieu of, or prior to or after the pronouncement
6 of sentence for any subsequent offense, order the
7 defendant to submit to evaluation, treatment or
8 rehabilitation services under section 125.33 at the
9 defendant's expense and to furnish evidence of
10 successful completion. A copy of the order shall
11 be forwarded to the department.

12 3. After a conviction for a violation of section
13 321.281, the court may refer the defendant for
14 treatment at a facility as defined in sections 125.1
15 to 125.43 and designated by the Iowa department of
16 substance abuse. The court may prescribe the length
17 of time for treatment or it may be left to the discre-
18 tion of the facility to which the defendant was
19 referred. A person referred under this section who
20 does not have sufficient income or estate to pay the
21 costs of the treatment in whole or in part is a state
22 patient and the costs of the treatment shall be paid
23 under section 125.44.

24 4. A person whose operating privileges have been
25 revoked under chapter 321B or for a conviction of
26 a violation of section 321.281 and who has had no
27 previous revocation under section 321.209, subsection
28 2, section 321.281, or chapter 321B shall not be
29 eligible for reinstatement of operating privileges
30 until the person has filed with the department proof
31 of satisfactory completion of a course for drinking
32 drivers or completion of evaluation, treatment or
33 rehabilitation services under section 125.33 and has
34 filed proof of compliance with chapter 321A.

35 5. A person whose operating privileges have been
36 revoked under chapter 321B or for a conviction of
37 a violation of section 321.281 and who has had one
38 or more previous revocations under section 321.209,
39 subsection 2, section 321.281, or chapter 321B shall
40 not be eligible for reinstatement of operating
41 privileges until the person has filed with the
42 department proof of completion of a substance abuse
43 evaluation and, if recommended by the evaluation,
44 a course of treatment or rehabilitation under section
45 125.33 and has filed proof of compliance with chapter
46 321A.

47 6. A person who is attending evaluation, treatment
48 or rehabilitation services voluntarily or under a
49 court order may be issued a temporary restricted
50 driving permit by the department for driving between

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1 the person's home and place of employment, in the
2 person's employment, and to and from the location
3 of the evaluation, treatment or rehabilitation services
4 if the person has complied with chapter 321A. The
5 fee for a temporary restricted driving permit issued
6 under this subsection is ten dollars. The permit
7 must be in the permittee's immediate possession while
8 the permittee is operating a motor vehicle and shall
9 be invalid when the permittee is issued a driver's
10 license. The temporary restricted driving permit
11 shall be canceled upon conviction of a moving traffic
12 violation. A violation of a restriction of a permit
13 issued under this subsection is a simple misdemeanor.

14 7. Successful completion of a course for drinking
15 drivers or evaluation, treatment or rehabilitation
16 services under this section does not reverse or reduce
17 the length of a revocation or denial of operating
18 privileges for a violation of section 321.281 or under
19 chapter 321B.

20 8. The course for drinking drivers shall be offered
21 on a regular basis at each area school as defined
22 in section 280A.2. Enrollment in the courses is not
23 limited to persons required to attend the course and
24 any person may enroll in and attend a course for
25 drinking drivers.

26 9. The department of public instruction shall
27 establish reasonable fees to defray the expense of
28 obtaining classroom space, instructor salaries, and
29 class materials for the courses for drinking drivers.
30 No person shall be denied enrollment in a course by
31 reason of indigency.

32 10. No employer shall discharge a person from
33 employment solely for the reason that the person is
34 absent from work in order to attend a course for
35 drinking drivers. An employer who violates this
36 section shall be liable for triple damages occasioned
37 by the unlawful discharge from employment.

38 11. The department of public instruction shall
39 prepare a list of the locations where the course for
40 drinking drivers is offered, the dates and times the
41 course is taught, the procedure for enrollment, and
42 the schedule of course fees. The list shall be kept
43 current and shall be provided to the department and
44 to each district court.

45 12. The department of public instruction shall
46 maintain enrollment, attendance, successful and
47 nonsuccessful completion data on the persons who have
48 enrolled in a course for drinking drivers. This data
49 shall be forwarded to the department."

50 6. Page 4, by inserting after line 49 the

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1 following:

2 "Sec. _____. Section 321B.4, subsection 2, Code
3 1983, is amended to read as follows:

4 2. The peace officer shall determine which of
5 the ~~four~~ three substances, breath, blood, ~~saliva~~,
6 or urine, shall be tested. Refusal to submit to a
7 chemical test of urine, ~~saliva~~ or breath is deemed
8 a refusal to submit, and ~~section~~ sections 321B.13
9 ~~applies~~ and 321B.29 apply. A refusal to submit to
10 a chemical test of blood is not deemed a refusal to
11 submit, but, in that case, the peace officer shall
12 then determine which ~~one~~ of the other ~~three~~ substances
13 shall be tested and shall offer the test. If the
14 peace officer fails to provide a test within two hours
15 after the preliminary screening test ~~is~~ was
16 administered or refused or the arrest ~~is~~ was made,
17 whichever ~~occurs~~ occurred first, a test is not
18 required, and there shall be no revocation under
19 section 321B.13.

20 Sec. _____. Chapter 321B, Code 1983, is amended
21 by adding the following new section:

22 NEW SECTION. 321B.5 URINE TEST REQUIRED. If
23 there are reasonable grounds to believe that the
24 person was operating a motor vehicle while under the
25 influence of a drug other than or in addition to
26 alcohol and which may not be readily detected by a
27 blood or breath test, the peace officer may request
28 a urine specimen for testing even after a blood or
29 breath specimen has been withdrawn. If the person
30 refuses to submit to a request under this section,
31 sections 321B.13 and 321B.29 apply."

32 7. Page 5, by inserting after line 16 the
33 following:

34 "Sec. _____. Section 321B.13, Code 1983, is amended
35 to read as follows:

36 321B.13 REFUSAL TO SUBMIT. If a person refuses
37 to submit to the chemical testing, a test shall not
38 be given, but ~~the department, upon the receipt of~~
39 ~~a sworn report of~~ certification by the peace officer
40 that the officer had reasonable grounds to believe
41 ~~that the person to have been~~ was operating a motor
42 vehicle in violation of section 321.281, that specified
43 there existed one or more of the necessary conditions
44 existed for chemical testing pursuant to described
45 in section 321B.4, subsection 1, and that the person
46 had refused to submit to the chemical testing, the
47 department shall revoke the person's license or permit
48 to drive and any nonresident operating privilege for
49 a period of one ~~hundred-eighty-days~~ year if the person
50 has no previous revocation under section 321.209,

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1 subsection 2, section 321.281, or this chapter, ~~one~~
2 ~~year-if-the-person-has-one-previous-revocation-under~~
3 ~~those-provisions,~~ and ~~five-hundred-forty-days~~ two
4 years if the person has ~~two~~ one or more previous
5 revocations under those provisions, ~~or-if.~~ If the
6 person is a resident without a license or permit to
7 operate a motor vehicle in this state, the department
8 shall deny ~~to~~ the person the issuance of a license
9 or permit for the same period a license or permit
10 would ~~be~~ have been revoked, subject to review as
11 provided in this chapter.

12 PARAGRAPH DIVIDED. The effective date of revocation
13 shall be twenty days after the department has mailed
14 notice of revocation to the person by certified mail
15 ~~or-on-behalf-of-the-department,-a.~~ The peace officer
16 ~~offering-or-directing-the-administration-of-a~~ who
17 requested the chemical test may, on behalf of the
18 department, serve immediate notice of intention-to
19 ~~revoke-and-of~~ revocation on a person who refuses to
20 permit chemical testing. If the peace officer serves
21 that immediate notice, the peace officer shall take
22 the person's Iowa license or permit ~~of-the-driver,~~
23 if any, and issue a temporary license effective valid
24 for only twenty days. The peace officer shall
25 immediately send the person's license to the department
26 along with ~~an-affidavit~~ the officer's certificate
27 indicating the person's refusal to submit to chemical
28 testing.

29 Sec. _____. Section 321B.14, subsection 4, Code
30 1983, is amended to read as follows:

31 4. Search warrants issued under this section shall
32 authorize and direct peace officers to secure the
33 withdrawal of ~~blood~~ specimens by medical personnel
34 under section 321B.15. Reasonable care shall be
35 exercised to ensure the health and safety of the
36 persons from whom specimens are withdrawn in execution
37 of the warrants. If a peace officer elects to seek
38 withdrawal of a blood specimen but the person from
39 whom a the specimen is to be withdrawn objects to
40 the withdrawal of blood, the officer may still secure
41 a urine specimen at that time if possible or, if the
42 person is capable of giving a specimen of breath,
43 and a direct breath testing instrument is readily
44 available, the warrant may be executed by ~~the~~
45 withdrawal of a breath specimen ~~of-breath~~ for chemical
46 testing."

47 8. Page 8, by inserting after line 10 the
48 following:

49 "Sec. _____. NEW SECTION. 321B.30 CIVIL PENALTY-
50 -VICTIM REPARATION FUND. When the department revokes

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1 a person's license or operating privilege under this
2 chapter, the department shall assess the person a
3 civil penalty of one hundred dollars. The money
4 collected by the department under this section shall
5 be transmitted to the treasurer of state who shall
6 deposit the money in the general fund of the state.
7 A temporary restricted license shall not be issued
8 or a license or privilege to drive reinstated until
9 the civil penalty has been paid.

10 Sec. _____. Section 321B.36, Code 1983, is amended
11 to read as follows:

12 321B.36 OTHER EVIDENCE. ~~The provisions of this~~
13 ~~This chapter shall does not be construed as limiting~~
14 ~~limit~~ the introduction of any other competent evidence
15 bearing on the question of whether the person was
16 under the influence of an alcoholic beverage or other
17 drugs.

18 Sec. _____. Section 321B.38, Code 1983, is amended
19 to read as follows:

20 321B.38 DRIVING WHILE LICENSE DENIED OR REVOKED.
21 ~~Any~~ A person whose license or driving privilege has
22 been denied or revoked ~~as provided in~~ under this
23 chapter and who drives ~~any~~ a motor vehicle ~~upon the~~
24 ~~highways of~~ in this state while the license or
25 privilege is denied or revoked ~~is guilty of~~ commits
26 a serious misdemeanor and, notwithstanding section
27 907.3, shall be imprisoned in the county jail not
28 less than seven days for a first offense under this
29 section and not less than thirty days for a second
30 or subsequent offense under this section. ~~The~~ In
31 addition, the department, upon receiving the record
32 of the conviction of ~~any~~ a person under this section
33 ~~upon a charge of driving a motor vehicle while the~~
34 ~~license of the person was revoked or denied~~, shall
35 extend the period of revocation or denial for an
36 additional like period, and the department shall not
37 issue a new license during the additional period.

38 Sec. _____. Section 602.6405, Code Supplement 1983,
39 is amended by striking the section and inserting in
40 lieu thereof the following:

41 602.6405 JURISDICTION--PROCEDURE.

42 1. Magistrates have jurisdiction as follows:

- 43 a. Of simple misdemeanors, including traffic and
44 ordinance violations.
45 b. Of preliminary hearings.
46 c. Of search warrant proceedings.
47 d. Of small claims.
48 e. To exercise the powers specified in sections
49 644.2 and 644.12.
50 f. To hear complaints, issue warrants, order

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1 arrests, make commitments, and take bail.

2 g. Of first offense violations of section 321.281
3 to the extent that they may approve trial informations,
4 conduct arraignments, accept guilty pleas from
5 defendants represented by legal counsel, and sentence
6 persons whose guilty pleas they accept.

7 h. Of violations of sections 321.281, 321.282,
8 321A.32 and 321B.38 to the extent that they may approve
9 trial informations, conduct arraignments, accept
10 guilty pleas, hear bench trials, and sentence persons.

11 2. The criminal procedure before magistrates is
12 as provided in chapters 804, 806, 808, 811, 820 and
13 821 and the rules of criminal procedure applicable
14 to the offenses of which they exercise jurisdiction.
15 The civil procedure before magistrates shall be as
16 provided in chapters 631 and 648.

17 Sec. _____. Section 690.2, Code 1983, is amended
18 to read as follows:

19 690.2 FINGER AND PALM PRINTS--DUTY OF SHERIFF
20 AND CHIEF OF POLICE. It shall be the duty of the
21 sheriff of every county, and the chief of police of
22 each city ~~regardless of the form of government thereof~~
23 ~~and~~ having a population of ten thousand or ~~over~~ more,
24 to take the fingerprints of all persons held either
25 for investigation, ~~for~~ or the commission of a felony,
26 as a fugitive from justice, or for bootlegging, the
27 maintenance of an intoxicating liquor nuisance,
28 manufacturing intoxicating liquor, operating a motor
29 vehicle ~~while under the influence of an alcoholic~~
30 ~~beverage~~ in violation of section 321.281 or for illegal
31 transportation of intoxicating liquor, and to take
32 the fingerprints of all unidentified dead bodies in
33 their respective jurisdictions, and to forward ~~such~~
34 ~~the~~ fingerprint records on ~~such~~ forms and in ~~such~~
35 a manner ~~as may be~~ prescribed by the commissioner
36 of public safety, within forty-eight hours after the
37 ~~same~~ fingerprints are taken, to the ~~bureau~~ division
38 of criminal investigation. If the fingerprints of
39 any person are taken under ~~the provisions hereof~~ this
40 section whose fingerprints are not already on file,
41 ~~and said~~ the person is not convicted of any offense,
42 ~~then said~~ the fingerprint records shall be destroyed
43 by any officer having them. In addition to ~~the taking~~
44 ~~fingerprints as herein provided any such~~ under this
45 section, an officer may also take the person's palm
46 ~~prints of any such person~~.

47 Sec. _____. Section 907.3, subsection 1, paragraph
48 g, Code 1983, is amended to read as follows:

49 g. The offense is a violation of section 321.281
50 ~~and, within the previous six years, the person has~~

1 ~~been-convicted-of-a-violation-of-that-section-or-the~~
2 ~~person's-driver's-license-has-been-revoked-pursuant~~
3 ~~to-that-section-or-chapter-321B.~~

4 Sec. _____. Section 912.1, subsection 4, Code 1983,
5 is amended to read as follows:

6 4. "Crime" means conduct that occurs or is
7 attempted in this state, poses a substantial threat
8 of personal injury or death, and is punishable as
9 a felony, an aggravated misdemeanor, or a serious
10 misdemeanor, or would be so punishable but for the
11 fact that the person engaging in the conduct lacked
12 the capacity to commit the crime under the laws of
13 this state. "Crime" does not include conduct arising
14 out of the ownership, maintenance, or use of a motor
15 vehicle, motorcycle, motorized bicycle, train, boat,
16 or aircraft except for violations of section 321.281
17 or when the intention is to cause personal injury
18 or death. A plea or verdict of guilty of a charge
19 under section 321.281 or a license revocation under
20 section 321B.13 or 321B.16 shall be considered by
21 the department as evidence of a violation of section
22 321.281 for the purposes of this chapter.

23 Sec. _____. Section 912.6, Code 1983, is amended
24 to read as follows:

25 912.6 COMPUTATION OF REPARATION. The commissioner
26 shall make reparation, as appropriate, for any of
27 the following economic losses incurred as a direct
28 result of an injury to or death of the victim, ~~not~~
29 ~~to-exceed-two-thousand-dollars-per-victim-unless~~
30 ~~otherwise-specified:~~

31 1. Reasonable charges incurred for medical care
32 not to exceed ten thousand dollars.

33 2. Loss of income from work the victim would have
34 performed and for which the victim would have received
35 compensation for if the victim had not been injured
36 not to exceed two thousand dollars.

37 3. Reasonable replacement value of clothing that
38 is held for evidentiary purposes, ~~but~~ not to exceed
39 one hundred dollars.

40 4. Reasonable funeral and burial expenses not
41 to exceed ~~one~~ two thousand five hundred dollars.

42 5. Loss of support for dependents resulting from
43 death or a period of disability of the victim of sixty
44 days or more not to exceed two thousand dollars per
45 dependent or a total of six thousand dollars.

46 Sec. _____. Section 912.13, Code 1983, is repealed.

47 Sec. _____. Section 23 of this Act, being deemed
48 of immediate importance, takes effect from and after
49 the Act's publication in the Onawa Democrat, a
50 newspaper published in Onawa, Iowa and in the Diamond

1 Trail News, a newspaper published in Sully, Iowa."

HOUSE FILE 2486

H-6455

1 Amend House amendment H-6407 to amendment H-6285
2 to House File 2486 as amended, passed, and reprinted
3 as follows:

4 1. Page 2, lines 25 and 26, by striking the words
5 "two hundred fifty" and inserting in lieu thereof
6 the word "five".

7 2. Page 2, line 37, by inserting after the word
8 and figure "subsection 2" the words "and assessed
9 a fine of not less than seven hundred fifty dollars".

10 3. Page 2, line 39, by inserting after the word
11 "offense" the words "and assessed a fine of not less
12 than seven hundred fifty dollars".

13 4. Page 6, by inserting after line 32 the
14 following:

15 "Sec. _____. Section 321B.13, Code 1983, is amended
16 to read as follows:

17 321B.13 REFUSAL TO SUBMIT. If a person refuses
18 to submit to the chemical testing, a test shall not
19 be given, but the department, upon the receipt of
20 a sworn report of the peace officer that the officer
21 had reasonable grounds to believe the person to have
22 been operating a motor vehicle in violation of section
23 321.281, that specified conditions existed for chemical
24 testing pursuant to section 321B.4, and that the
25 person had refused to submit to the chemical testing,
26 shall revoke the person's license or permit to drive
27 and any nonresident operating privilege for a period
28 of ~~one~~ two hundred eighty forty days if the person
29 has no previous revocation under section 321.209,
30 subsection 2, section 321.281, or this chapter; ~~one~~
31 ~~year-if-the-person-has-one-previous-revocation-under~~
32 ~~these-provisions~~, and five hundred forty days if the
33 person has ~~two~~ one or more previous revocations under
34 those provisions; or if the person is a resident
35 without a license or permit to operate a motor vehicle
36 in this state, the department shall deny to the person
37 the issuance of a license or permit for the same
38 period a license or permit would be revoked, subject
39 to review as provided in this chapter. The effective
40 date of revocation shall be twenty days after the
41 department has mailed notice of revocation to the
42 person by certified mail or, on behalf of the
43 department, a peace officer offering or directing
44 the administration of a chemical test may serve
45 immediate notice of intention to revoke and of
46 revocation on a person who refuses to permit chemical
47 testing. If the peace officer serves that immediate
48 notice, the peace officer shall take the Iowa license
49 or permit of the driver, if any, and issue a temporary
50 license effective for only twenty days. The peace

1 officer shall immediately send the person's license
2 to the department along with an affidavit indicating
3 the person's refusal to submit to chemical testing.
4 The department may, on application, issue a
5 temporary restricted license to a person whose license
6 has been subject to revocation under section 321.209,
7 subsection 2, section 321.281, or this chapter, for
8 a second or subsequent time to allow the person to
9 drive to and from the person's home and place of
10 employment, in the course of the person's employment,
11 and to attend evaluation, treatment or educational
12 services for alcohol or drug dependency, upon
13 expiration of the first three hundred and sixty days
14 of the person's period of revocation."

BY JAY of Appanoose
McINTEE of Black Hawk
SCHROEDER of Pottawattamie
TABOR of Jackson

H-6455 FILED APRIL 19, 1984

ADOPTED (p. 2305)
as amended by 6471

HOUSE FILE 2486

H-6470

- 1 Amend amendment H-6407 to the Senate amendment
 2 H-6285 to House File 2486 as amended, passed, and
 3 reprinted by the House as follows:
 4 1. Page 9, by striking lines 27 through 28, and
 5 inserting in lieu thereof the following: "deposit the
 6 money in the general fund. A temporary".
 7 2. Page 9, by inserting after line 31, the
 8 following:
 9 "Sec. _____. There is appropriated from the general
 10 fund of the state to the department of public
 11 safety for the fiscal year beginning July 1, 1984,
 12 and ending June 30, 1985, the following amounts, or
 13 so much thereof as is necessary, to be used for the
 14 funding of the crime victim reparations program for
 15 the purposes designated:
 16 1. For the payment of claims filed under the
 17 program.....\$1,400,000.
 18 2. For salaries, support, and miscellaneous
 19 operational expenses in the administration of the
 20 program.....\$50,000."
 21 3. By renumbering sections as necessary.

H-6470 FILED APRIL 19, 1984 BY BENNETT of Ida
 DIVISION A - LOST, DIVISION B - LOST (p. 2311)

HOUSE FILE 2486

H-6471

- 1 Amend amendment H-6455 to amendment H-6407 to the
 2 Senate amendment H-6285 to House File 2486 as amended,
 3 passed, and reprinted by the House as follows:
 4 1. Page 1, line 6, by inserting after the word
 5 "five" the word "hundred".

H-6471 FILED APRIL 19, 1984 BY JAY of Appanoose
 ADOPTED BY UNANIMOUS CONSENT (p. 2304)

HOUSE FILE 2486

H-6467

- 1 Amend House amendment H-6407 to amendment H-6285
 2 to House File 2486 as amended, passed and reprinted
 3 by the House as follows:
 4 1. Page 5, line 1, by striking the word
 5 "subsection" and inserting in lieu thereof the word
 6 "subsections".
 7 2. Page 5, by striking lines 6 and 7.
 8 3. Page 5, by inserting after line 23 the
 9 following:
 10 "NEW SUBSECTION. A person whose motor vehicle
 11 license was revoked under this section or under chapter
 12 321B who has been ordered by the court to perform
 13 community service work as a result of a violation
 14 of this section may be issued a temporary restricted
 15 driving permit by the department to allow the person
 16 to drive to and from the person's home and the location
 17 at which the community service work will be performed."

H-6467 FILED APRIL 19, 1984 BY SHERZAN of Polk
 ADOPTED (p. 2307)

HOUSE FILE 2486

H-6460

1 Amend House amendment H-6448 to the amendment H-
 2 6285 to House File 2486 as amended, passed and
 3 reprinted by the House as follows:
 4 1. Page 1, by inserting after line 2 the following:
 5 "1. Page 1, by inserting after line 4 the
 6 following:
 7 "Section 1. Section 123.3, subsection 33, Code
 8 1983 is amended to read as follows:
 9 33. "Legal age" means ~~nineteen~~ twenty-one years
 10 of age or more.
 11 Sec. 2. Section 1 of this Act does not apply to
 12 persons born on or before June 30, 1965."

H-6460 FILED APRIL 19, 1984 BY VAN CAMP of Scott
 NOT GERMANE (p. 2288)

HOUSE FILE 2486

H-6461

1 Amend House amendment H-6448 to the amendment H-
 2 6285 to House File 2486 as amended, passed and
 3 reprinted by the House as follows:
 4 1. Page 5, by striking line 26, and inserting
 5 in lieu thereof the following: "~~or is revoked under~~
 6 ~~subsection 6 of that section~~ who".

H-6461 FILED APRIL 19, 1984 BY MCKEAN of Jones
 ADOPTED (p. 2288)

HOUSE FILE 2486

H-6466

1 Amend House amendment H-6407 to amendment H-6285
 2 to House File 2486 as amended, passed and reprinted
 3 by the House as follows:
 4 1. Page 6, by inserting after line 32 the
 5 following:
 6 "Sec. ____ . Section 321B.13, Code 1983, is amended
 7 by adding the following new unlettered paragraph:
 8 NEW UNLETTERED PARAGRAPH. The department may,
 9 on application, issue a temporary restricted license
 10 to a person whose license has been revoked under this
 11 section and who has entered a plea of guilty to a
 12 charge under section 321.281 when the person's regular
 13 employment includes the operation of a motor vehicle
 14 or who cannot perform the person's regular occupation
 15 without the use of a motor vehicle, or when the
 16 person's use of a motor vehicle is necessary to attend
 17 evaluation, treatment or educational services for
 18 alcohol or drug dependency, or to attend court ordered
 19 community service, but the person shall not operate
 20 a vehicle for pleasure while holding a restricted
 21 license. However, this paragraph does not apply to
 22 a person whose license is suspended or revoked for
 23 another reason."

BY DODERER of Johnson
 SCHROEDER of Pottawattamie
 JAY of Appanoose

H-6466 FILED APRIL 19, 1984
 ADOPTED (p. 2306)

H-6407

Page Thirteen

1 was a serious injury or death, by providing for
2 restitution by offending drivers for any damage caused,
3 by providing a special revocation period for persons
4 age nineteen or under, by providing a civil penalty
5 to be assessed against persons convicted of operating
6 a motor vehicle while intoxicated to be used to finance
7 the victim reparation fund, by providing access to
8 the record of previous deferred judgments by county
9 attorneys, and by establishing a study committee to
10 conduct a study on present laws and penalties relating
11 to the offense of operating a motor vehicle while
12 intoxicated and make any recommendations for changes
13 in the law in a report to the general assembly.

H-6407 FILED APRIL 18, 1984 BY JAY of Appanoose

Revised not germane 4/19 (p. 2311)

*Revised amended & adopted as amended by
6444, 6445, 6447, 6455, 6466, 6467 4/19 (p. 2312)*

HOUSE FILE 2486

H-6447

1 Amend amendment H-6407 to amendment H-6285 to House
2 File 2486 as amended, passed, and reprinted by the
3 House as follows:
4 1. Page 3, line 18, by striking the word "hospital"
5 and inserting in lieu thereof the words "treatment
6 program".
7 2. Page 3, by striking line 21, and inserting in
8 lieu thereof the following: "the treatment program or
9 has".

H-6447 FILED APRIL 18, 1984 BY ZIMMERMAN of Dallas

Adopted 4/19 (p. 2305)

HOUSE FILE 2486

REVISED

Amendment H-6407

FISCAL NOTE

REQUESTED BY REPRESENTATIVE JAY

In compliance with a written request received April 18, 1984, there is hereby submitted a Fiscal Note for Amendment H-6407 to House File 2486 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the General Assembly upon request.

Section 1 allows the department of beer and liquor control to impose a civil fine of \$100 for the first offense, \$250 for the second offense, and \$500 for the third offense of violations of Section 123.49. Based on the number of offenses reported by the department in calendar year 1983 the estimated impact on the state general fund is \$8,250.

Section 4 requires that persons convicted of a first offense OMVUI be assessed a fine of not less than \$250 nor more than \$1,000, or perform from 50 to 200 hours of unpaid community service. In calendar year 1983 there were 14,272 dispositions for first offense OMVUI. These fines are subject to the 10% surcharge and the following estimate includes this computation. Assuming that 50% of these would be fined an average of \$250 the estimated revenue to the general fund would be \$1,962,400.

Section 4 also requires the defendant to undergo a substance abuse evaluation on the second and subsequent OMVUI offense. The court is allowed to order the defendant to follow the recommendations proposed in the substance abuse evaluation for appropriate substance abuse treatment. In 1983, there were 2,480 dispositions for second offense OMVUI. If 25% of these were unable to pay for the substance abuse evaluation, the estimated impact on the state general fund would be \$33,635. Based on current utilization of inpatient and outpatient substance abuse treatment programs, the estimated impact on court ordered substance abuse treatment would be \$223,000 for inpatient treatment and \$204,848 for outpatient treatment.

The court has the option of sentencing persons convicted of a first offense OMVUI to unpaid community service. It is assumed that staff in the district departments of correctional services would be assigned to coordinate and supervise these activities. If 50% of the persons convicted of first offense OMVUI 8 additional probation officers would be needed at a cost to the general fund of \$178,000.

Page Two, Fiscal Note, House File 2486

Section 18 requires that a \$100 civil fine be imposed when the department of transportation revokes a persons driving privileges due to an OMVUI violation. These funds will be deposited in a special victim reparation account. It expected that this fine will generate \$1,461,510.

Section 25 establishes a committee to study the laws and penalties relating to OMVUI. Assuming that the study committee meets twice a month for four months (September through December), the cost for the four non-public employees would be \$3,300.

The following table shows the net impact on the state general fund.

REVENUES	
Civil penalties for violations of liquor sales	\$ 8,250
Court ordered fines for 1st offense OMVUI	<u>1,784,000</u>
TOTAL REVENUES	\$1,962,400
EXPENSES	
Substance abuse evaluations	\$ 33,635
Inpatient sub. abuse treatment	223,000
Outpatient sub. abuse treatment	204,848
Community service supervision	178,000
Study committee expenses	<u>3,200</u>
TOTAL EXPENSES	\$ 642,683
NET IMPACT ON STATE GENERAL FUND INCREASE/ (DECREASE)	\$1,319,717
REVENUES TO THE VICTIM REPARATION FUND	\$1,461,510

IMPACT ON COUNTY JAILS: Several provisions in the bill is expected to have an impact on county jail populations and expenses. However, due to lack of county information it is not possible to prepare an estimate of this impact.

FILED APRIL 18, 1984

BY DENNIS PROUTY, FISCAL DIRECTOR

House Amendment to Senate Amendment
to House File 2486

-6028

1 Amend the amendment H-6285 to House File 2486 as
2 amended, passed, and reprinted by the House as follows:

3 1. Page 1, by striking everything after line 6
4 and inserting in lieu thereof the following:

5 "NEW SUBSECTION. 4. The department shall adopt
6 rules to establish civil penalties in the amount of
7 one hundred dollars for a first offense, two hundred
8 fifty dollars for a second offense, and five hundred
9 dollars for a third offense which the department
10 shall, subject to the discretion of the director,
11 assess against licensees or permittees for violations
12 of section 123.49 as an alternative to other penalties
13 fixed for such violations by this section. Money
14 collected from penalties assessed under this subsection
15 shall be deposited with the Iowa department of
16 substance abuse for use in substance abuse treatment
17 programs.

18 NEW SUBSECTION. 5. Upon the conviction of a
19 person acting as a vendor, as defined in section
20 123.24, subsection 1, for a violation of section
21 123.47 while in the course of the person's employment
22 at the state liquor store, the director shall dismiss
23 the person from the position as vendor if the person
24 has failed to follow procedures developed by the
25 director to prevent sales to minors.

26 Sec. 2. Section 321.1, Code Supplement 1983, is
27 amended by adding the following new subsections:

28 NEW SUBSECTION. "Alcohol concentration" means
29 the number of grams of alcohol per any of the
30 following:

- 31 a. One hundred milliliters of blood.
- 32 b. Two hundred ten liters of breath.
- 33 c. Sixty-seven milliliters of urine.

34 NEW SUBSECTION. "Alcoholic beverage" includes
35 alcohol, wine, spirits, beer, or any other beverage
36 which contains ethyl alcohol and is fit for human
37 consumption.

38 Sec. 3. Section 321.189, subsection 1, Code 1983,
39 is amended by inserting after unnumbered paragraph
40 1 the following new unnumbered paragraph:

41 NEW UNNUMBERED PARAGRAPH. A motor vehicle license
42 or a nonoperator's identification card issued to a
43 person under nineteen years of age shall be identical
44 in form to any other motor vehicle license or
45 nonoperator's identification card issued to any other
46 person, except that the photograph appearing on the
47 face of the license or card shall be a side profile
48 of the applicant. Upon attaining the age of nineteen,
49 and upon the payment of a one dollar fee, the person
50 shall be entitled to a new motor vehicle license or

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PAGE 2

1 nonoperator's identification card for the unexpired
2 months of the motor vehicle license or the
3 nonoperator's identification card. This paragraph
4 is effective for licenses or cards issued after the
5 effective date of this Act.

6 Sec. 4. Section 321.281, subsections 1 and 2,
7 Code 1983, is amended to read as follows:

8 1. A person shall not operate a motor vehicle
9 ~~upon the public highways of~~ in this state in either
10 of the following conditions:

11 a. While under the influence of an alcoholic
12 beverage, ~~a narcotic, hypnotic,~~ or other drug, or
13 any a combination of such substances.

14 b. While having an alcohol concentration of
15 thirteen hundredths or more of one percent by weight
16 ~~of alcohol in the blood.~~

17 2. A person convicted of a violation of this
18 section, upon conviction or a plea of guilty, is
19 guilty of:

20 a. A serious misdemeanor for the first offense
21 and shall be imprisoned in the county jail for not
22 less than forty-eight hours to be served as ordered
23 by the court, less credit for any time the person
24 was confined in a jail or detention facility following
25 arrest and assessed a fine of not less than five
26 hundred dollars nor more than one thousand dollars.
27 As an alternative to the fine, the court may order
28 the person to perform not less than fifty nor more
29 than two hundred hours of unpaid community service.
30 The court may accommodate the sentence to the work
31 schedule of the defendant.

32 b. An aggravated misdemeanor for a second offense
33 and shall be imprisoned in the county jail or
34 community-based correctional facility not less than
35 seven days, which minimum term cannot be suspended
36 notwithstanding section 901.5, subsection 3 and section
37 907.3, subsection 2 and assessed a fine of not less
38 than seven hundred fifty dollars.

39 c. A class "D" felony for a third offense and
40 each subsequent offense and assessed a fine of not
41 less than seven hundred fifty dollars.

42 No conviction for, deferred judgment for, or plea
43 of guilty to, a violation of this section which
44 occurred more than six years prior to the date of
45 the violation charged shall be considered in
46 determining that the violation charged is a second,
47 third or subsequent offense. For the purpose of
48 determining if a violation charged is a second, third,
49 or subsequent offense, a deferred judgment pursuant
50 to section 907.3 for an offense under this section

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1 shall be counted as a previous violation.

2 On a conviction for a second or subsequent offense
3 in violation of this section, the court shall order
4 the defendant to undergo a substance abuse evaluation
5 and the court may order the defendant to follow the
6 recommendations proposed in the substance abuse
7 evaluation for appropriate substance abuse treatment
8 for the defendant. Court ordered substance abuse
9 treatment is subject to the periodic reporting
10 requirements of section 125.86. If a defendant is
11 committed by the court to a substance abuse treatment
12 facility, the administrator of the facility shall
13 report to the court when it is determined that the
14 defendant has received the maximum benefit of treatment
15 at the facility and the defendant shall be released
16 from the facility. The time for which the defendant
17 is committed for treatment shall be credited against
18 the defendant's sentence. The court may prescribe
19 the length of time for the evaluation and treatment
20 or it may request that the treatment program to which
21 the person is committed immediately report to the
22 court when the person has received maximum benefit
23 from the treatment program or has recovered from the
24 person's addiction, dependency, or tendency to
25 chronically abuse alcohol or drugs. A person committed
26 under this section who does not possess sufficient
27 income or estate to make payment of the costs of the
28 treatment in whole or in part shall be considered
29 a state patient and the costs of treatment shall be
30 paid as provided in section 125.44. A defendant who
31 fails to carry out the order of the court or who fails
32 to successfully complete or attend an ordered substance
33 abuse treatment program shall be confined in the
34 county jail for twenty days in addition to any other
35 imprisonment ordered by the court or may be ordered
36 to perform unpaid community service work, and shall
37 be placed on probation for one year with a violation
38 of this probation punishable as contempt of court.

39 Sec. 5. Section 321.281, subsections 7 and 8,
40 Code 1983, are amended to read as follows:

41 7. This section does not apply to a person
42 operating a motor vehicle while under the influence
43 of a ~~narcotic, hypnotic, or other~~ drug if such
44 ~~substances were~~ the substance was prescribed for the
45 person and ~~were~~ was taken under the prescription and
46 in accordance with the directions of a medical
47 practitioner as defined in section 155.3, subsection
48 11, if there is no evidence of the consumption of
49 alcohol and the medical practitioner had not directed
50 the person to refrain from operating a motor vehicle.

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1 8. In any prosecution under this section, evidence
2 of the results of analysis of a specimen of the
3 defendant's blood, breath, ~~saliva~~, or urine is
4 admissible upon proof of a proper foundation. In
5 an action in which a violation ~~of~~ by the means
6 described in subsection 1, paragraph "a" of this
7 section is alleged, evidence that ~~there was, at the~~
8 ~~time, the defendant had an alcohol concentration of~~
9 ~~ten hundredths or more of one percent by weight of~~
10 ~~alcohol in the defendant's blood~~ is presumptive
11 evidence that the defendant was under the influence
12 of an alcoholic beverage.

13 Sec. 6. Section 321.281, subsection 9, Code 1983,
14 is amended by adding the following new paragraphs:
15 NEW PARAGRAPH. d. Upon a plea or verdict of
16 guilty of a violation of this section during the
17 occurrence of which there was an accident causing
18 a serious injury in which the defendant was judged
19 to be at fault, the court in which the plea was entered
20 or the verdict was returned shall order that the
21 defendant's license or permit to operate motor vehicles
22 be revoked by the department and that the defendant
23 shall remain ineligible for a new license or permit
24 for a period of one year in addition to any other
25 period of suspension. Any license or permit to operate
26 motor vehicles held by the defendant shall be
27 surrendered to the court who shall forward it to the
28 department with a copy of the order for revocation.
29 A person whose license to operate a motor vehicle
30 has been revoked pursuant to this subsection may be
31 issued a temporary restricted driving permit by the
32 department allowing the person to drive to and from
33 the person's home and place of employment and in the
34 course of the person's employment upon the completion
35 by the defendant of a substance abuse evaluation under
36 section 125.33 and completion of a program of treatment
37 if recommended.

38 NEW PARAGRAPH. e. Upon a plea or verdict of
39 guilty of a violation of this section during the
40 occurrence of which there was an accident which caused
41 a loss of life for which the defendant was judged
42 to be at fault, the court in which the plea was entered
43 or the verdict was returned shall order that the
44 defendant's license or permit to operate motor vehicles
45 be revoked by the department and that the defendant
46 for a period of six years shall not be eligible for
47 a new license or permit. Any license or permit to
48 operate motor vehicles held by the defendant shall
49 be surrendered to the court who shall forward it to
50 the department with a copy of the order for revocation.

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1 Sec. 7. Section 321.281, Code 1983, is amended
2 by adding the following new subsections:

3 NEW SUBSECTION. 10. The court shall order a
4 defendant convicted of a violation of this section
5 to make restitution for damages resulting directly
6 from the violation.

7 NEW SUBSECTION. If a defendant is convicted of
8 a first offense of this section and the defendant's
9 license or permit to operate a motor vehicle is revoked
10 under section 321.209 or chapter 321B for the
11 occurrence from which the arrest arose, the period
12 of revocation shall be the period provided for such
13 a revocation or until the defendant reaches the age
14 of nineteen whichever period is longer. A person
15 whose license to operate a motor vehicle is revoked
16 pursuant to this subsection may be issued a temporary
17 restricted driving permit by the department allowing
18 the person to drive to and from the person's home
19 and place of employment and in the course of the
20 person's employment and to attend evaluation, treatment
21 or educational services for alcohol or drug dependency.

22 NEW SUBSECTION. A person whose motor vehicle
23 license was revoked under this section or under chapter
24 321B who has been ordered by the court to perform
25 community service work as a result of a violation
26 of this section may be issued a temporary restricted
27 driving permit by the department to allow the person
28 to drive to and from the person's home and the location
29 at which the community service work will be performed.

30 Sec. 8. Section 321B.1, Code 1983, is amended
31 to read as follows:

32 321B.1 DECLARATION OF POLICY. The general assembly
33 declares that this chapter is necessary to aid the
34 enforcement of laws prohibiting operation of a motor
35 vehicle while under the influence of an alcoholic
36 beverage, ~~a narcotic, hypnotic,~~ or other drug or any
37 a combination of such substances, or while having
38 an alcohol concentration of a certain amount of alcohol
39 ~~in the blood~~ or more.

40 Sec. 9. Section 321B.2, unnumbered paragraph 2,
41 Code 1983, is amended to read as follows:

42 As used in this chapter and sections 29B.106,
43 ~~321.209, and 321.281, 321.494 and 690.2~~ the words
44 "alcoholic beverage" ~~include and~~ alcohol, ~~wine,~~
45 ~~spirits, beer, or any other beverage which contains~~
46 ~~ethyl alcohol and is fit for human consumption~~
47 concentration means as defined in section 321.1.

48 Sec. 10. Section 321B.4, subsection 1, unnumbered
49 paragraph 1, Code 1983, is amended to read as follows:

50 Any person who operates a motor vehicle in this

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1 state ~~upon-a-public-highway~~ under circumstances which
2 give reasonable grounds to believe that the person
3 ~~to-have~~ has been operating a motor vehicle in violation
4 of section 321.281, is deemed to have given consent
5 to the withdrawal of specimens of the person's blood,
6 breath, ~~saliva~~, or urine, and to a chemical test or
7 tests of the specimens for the purpose of determining
8 ~~the alcoholic-content-of-the-blood~~ alcohol
9 concentration or presence of drugs, subject to this
10 section. The withdrawal of the body substances and
11 the test or tests shall be administered at the written
12 request of a peace officer having reasonable grounds
13 to believe that the person ~~to-have-been~~ was operating
14 a motor vehicle in violation of section 321.281, and
15 if any of the following conditions exist:

16 Sec. 11. Section 321B.4, subsection 1, paragraph
17 d, Code 1983, is amended to read as follows:

18 d. The preliminary breath screening test was
19 administered and it ~~recorded~~ indicated an alcohol
20 concentration of ten hundredths or more of one-percent
21 by-weight-of-alcohol-in-the-blood.

22 Sec. 12. Section 321B.12, Code 1983, is amended
23 by striking the section and inserting in lieu thereof
24 the following:

25 321B.12 STATEMENT OF OFFICER. A person who has
26 been requested to submit to a chemical test shall
27 be advised by a peace officer of the following:

28 1. If the person refuses to submit to the test,
29 the person's license or operating privilege will be
30 revoked by the department for the applicable period
31 under section 321B.13.

32 2. If the person submits to the test and the
33 results indicate an alcohol concentration of ten
34 hundredths or more, the person's license or operating
35 privilege will be revoked by the department for the
36 applicable period under section 321B.16.

37 This section does not apply in any case involving
38 a person described in section 321B.11.

39 Sec. 13. Section 321B.13, Code 1983, is amended
40 to read as follows:

41 321B.13 REFUSAL TO SUBMIT. If a person refuses
42 to submit to the chemical testing, a test shall not
43 be given, but the department, upon the receipt of
44 a sworn report of the peace officer that the officer
45 had reasonable grounds to believe the person to have
46 been operating a motor vehicle in violation of section
47 321.281, that specified conditions existed for chemical
48 testing pursuant to section 321B.4, and that the
49 person had refused to submit to the chemical testing,
50 shall revoke the person's license or permit to drive

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1 and any nonresident operating privilege for a period
2 of ~~one~~ two hundred ~~eighty~~ forty days if the person
3 has no previous revocation under section 321.209,
4 subsection 2, section 321.281, or this chapter; ~~one~~
5 ~~year-if-the-person-has-one-previous-revocation-under~~
6 ~~these-provisions;~~ and five hundred forty days if the
7 person has ~~two~~ one or more previous revocations under
8 those provisions; or if the person is a resident
9 without a license or permit to operate a motor vehicle
10 in this state, the department shall deny to the person
11 the issuance of a license or permit for the same
12 period a license or permit would be revoked, subject
13 to review as provided in this chapter. The effective
14 date of revocation shall be twenty days after the
15 department has mailed notice of revocation to the
16 person by certified mail or, on behalf of the
17 department, a peace officer offering or directing
18 the administration of a chemical test may serve
19 immediate notice of intention to revoke and of
20 revocation on a person who refuses to permit chemical
21 testing. If the peace officer serves that immediate
22 notice, the peace officer shall take the Iowa license
23 or permit of the driver, if any, and issue a temporary
24 license effective for only twenty days. The peace
25 officer shall immediately send the person's license
26 to the department along with an affidavit indicating
27 the person's refusal to submit to chemical testing.

28 The department may, on application, issue a
29 temporary restricted license to a person whose license
30 has been subject to revocation under section 321.209,
31 subsection 2, section 321.281, or this chapter, for
32 a second or subsequent time to allow the person to
33 drive to and from the person's home and place of
34 employment, in the course of the person's employment,
35 and to attend evaluation, treatment or educational
36 services for alcohol or drug dependency, upon
37 expiration of the first three hundred and sixty days
38 of the person's period of revocation.

39 Sec. 14. Section 321B.13, Code 1983, is amended
40 by adding the following new unlettered paragraph:
41 NEW UNLETTERED PARAGRAPH. The department may,
42 on application, issue a temporary restricted license
43 to a person whose license has been revoked under this
44 section and who has entered a plea of guilty to a
45 charge under section 321.281 when the person's regular
46 employment includes the operation of a motor vehicle
47 or who cannot perform the person's regular occupation
48 without the use of a motor vehicle, or when the
49 person's use of a motor vehicle is necessary to attend
50 evaluation, treatment or educational services for

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1 alcohol or drug dependency, or to attend court ordered
2 community service, but the person shall not operate
3 a vehicle for pleasure while holding a restricted
4 license. However, this paragraph does not apply to
5 a person whose license is suspended or revoked for
6 another reason.

7 Sec. 15. Section 321B.15, Code 1983, is amended
8 to read as follows:

9 321B.15 TAKING SAMPLE FOR TEST. Only a licensed
10 physician, physician's assistant as defined in section
11 148C.1, subsection 6, medical technologist or
12 registered nurse, acting at the request of a peace
13 officer, may withdraw ~~body-substances~~ a specimen of
14 blood for the purpose of determining the ~~alcoholic~~
15 ~~or-drug-content-of-the-person's-blood~~ alcohol
16 concentration or the presence of drugs. However,
17 any peace officer, using devices and methods approved
18 by the commissioner of public safety, may take a
19 specimen of a person's breath or urine for the purpose
20 of determining the ~~alcoholic-or-drug-content-of-the~~
21 ~~person's-blood~~ alcohol concentration or the presence
22 of drugs. Only new, originally factory wrapped,
23 disposable syringes and needles, kept under strictly
24 sanitary and sterile conditions shall be used for
25 drawing blood.

26 PARAGRAPH DIVIDED. The person may have an
27 independent chemical test or tests administered by
28 a person of the person's own choosing and at the
29 person's own expense in addition to any administered
30 at the direction of a peace officer. The failure
31 or inability of the person to obtain an independent
32 chemical test or tests does not preclude the admission
33 in of evidence of the results of the test or tests
34 taken administered at the direction of the peace
35 officer. Upon the request of the person who is tested,
36 the results of the test or tests taken administered
37 at the direction of the peace officer shall be made
38 available to the person.

39 Sec. 16. Section 321B.16, Code 1983, is amended
40 to read as follows:

41 321B.16 TEST RESULT REVOCATION. Upon certification
42 by the peace officer that there existed reasonable
43 grounds to believe that the person ~~to-have had~~ been
44 operating a motor vehicle in violation of section
45 321.281, that there existed one or more of the
46 necessary conditions for chemical testing described
47 in section 321B.4, subsection 1, and that the person
48 submitted to chemical testing and the test results
49 ~~indicate~~ indicated an alcohol concentration of ten
50 hundredths or more ~~of-one-percent-by-weight-of-alcohol~~

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1 ~~in-the-person's-blood~~, the department shall revoke
2 the person's license or permit to drive or nonresident
3 operating privilege for a period of one hundred ~~twenty~~
4 ~~eighty~~ days if the person has had no revocation within
5 the previous six years under section 321.209,
6 subsection 2, section 321.281 or this chapter, ~~two~~
7 ~~hundred-forty-days-if-the-person-has-one-previous~~
8 ~~revocation-under-those-provisions~~, and one year if
9 the person has ~~two~~ had one or more previous revocations
10 under those provisions arising from separate
11 occurrences.

12 The effective date of the revocation shall be
13 twenty days after the department has mailed notice
14 of revocation to the person by certified mail ~~or~~,
15 ~~on-behalf-of-the-department--a.~~ The peace officer
16 ~~offering-a-chemical-test-or-directing~~ who requested
17 or directed the administration of a the chemical test
18 may, on behalf of the department, serve immediate
19 notice of-intention-to-revoke-and of revocation on
20 a person ~~when-the-person's~~ whose test results ~~indicate~~
21 indicated an alcohol concentration of ten hundredths
22 or more ~~of-one-percent-by-weight-of-alcohol-in-the~~
23 ~~blood.~~

24 If the peace officer serves that immediate notice,
25 the peace officer shall take the person's Iowa license
26 or permit ~~of-the-driver~~, if any, and issue a temporary
27 license valid only for twenty days. The peace officer
28 shall immediately send the person's driver's license
29 to the department along with an-affidavit-stating
30 the officer's certificate indicating that the test
31 results indicate indicated an alcohol concentration
32 of ten hundredths of-one-percent or more by-weight
33 of-alcohol-in-the-person's-blood.

34 The department may, on application, issue a
35 temporary restricted license to a the person whose
36 license has been revoked ~~under-this-section~~ when the
37 person's regular employment includes the operation
38 of a motor vehicle or ~~who the person~~ cannot perform
39 his or her regular occupation without the use of a
40 motor vehicle, or when the person's use of a motor
41 vehicle is necessary to attend evaluation, treatment
42 or educational services for alcohol or drug dependency,
43 but the person shall not operate a vehicle for pleasure
44 while holding a restricted license. However, this
45 paragraph does not apply to a person whose license
46 is suspended or revoked for another reason.

47 Sec. 17. Section 321B.26, Code 1983, is amended
48 to read as follows:

49 321B.26 HEARING. Upon the written request of
50 a person whose privilege to drive has been revoked

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1 or denied, or who has been issued a twenty-day license
2 pursuant to section 321B.13 or section 321B.16, the
3 department shall grant the person an opportunity to
4 be heard within twenty days after the receipt of the
5 request, but the request must be made within ten days
6 of the effective date of revocation or denial of
7 driving privileges or the issuance of a temporary
8 ~~permit~~ license. The hearing shall be before the
9 department in the county where the alleged events
10 occurred, unless the director and the person agree
11 that the hearing may be held in some other county.
12 The hearing may be recorded and its scope shall ~~never~~
13 be limited to the issues of whether a peace officer
14 had reasonable grounds to believe that the person
15 te-have-been was operating a motor vehicle in violation
16 of section 321.281, whether and either of the
17 following:

18 a. Whether the person refused to submit to the
19 test or tests.

20 b. Whether a test was administered and the test
21 results if-a-person-consented-to-a-test-and-whether
22 the-person-should-be-issued-a-temporary-restricted
23 license indicated an alcohol concentration of ten
24 hundredths or more.

25 PARAGRAPH DIVIDED. The department shall order
26 that the revocation or denial be either rescinded
27 or sustained.

28 Sec. 18. Section 321B.28, Code 1983, is amended
29 to read as follows:

30 321B.28 EVIDENCE IN ANY ACTION. Upon the trial
31 of any civil or criminal action or proceeding arising
32 out of acts alleged to have been committed by any
33 a person while operating a motor vehicle in violation
34 of section 321.281, evidence of the ~~amount-of~~ alcohol
35 concentration or the presence of drugs in the person's
36 blood body substances at the time of the act alleged
37 as shown by a chemical analysis of the person's blood,
38 breath, saliva or urine is admissible. If it is
39 established at trial that an analysis of a breath
40 specimen was performed by a certified operator using
41 a device and methods approved by the commissioner
42 of public safety, no further foundation is necessary
43 for introduction of the evidence.

44 Sec. 19. NEW SECTION. 321B.30 CIVIL PENALTY-
45 -VICTIM REPARATION FUND. When the department revokes
46 a person's license or operating privilege under this
47 chapter, the department shall assess the person a
48 civil penalty of one hundred dollars. The money
49 collected by the department under this section shall
50 be transmitted to the treasurer of state who shall

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1 deposit the money in a separate fund dedicated to
2 and used for the purposes of chapter 912. A temporary
3 restricted license shall not be issued or a license
4 or privilege to drive reinstated until the civil
5 penalty has been paid.

6 Sec. 20. Section 907.4, Code 1983, is amended
7 to read as follows:

8 907.4 DEFERRED JUDGMENT DOCKET. Any deferment
9 of judgment under section 907.3 shall be reported
10 promptly by the clerk of the district court to the
11 supreme court administrator who shall maintain a
12 permanent record thereof including the name of the
13 defendant, the district court docket number, the
14 nature of the offense, and the date of the deferment.
15 Before granting deferment in any case, the court shall
16 request of the supreme court administrator a search
17 of the deferred judgment docket and shall consider
18 any prior record of a deferment of judgment against
19 the defendant. The permanent record provided for
20 in this section shall constitute a confidential record
21 exempted from public access under section 68A.7 and
22 shall be available only to justices of the supreme
23 court, judges of the court of appeals, district judges,
24 district associate judges, and judicial magistrates,
25 and county attorneys requesting information pursuant
26 to this section or the designee of such justice,
27 judge, or magistrate, or county attorney.

28 Sec. 21. Section 912.1, subsection 4, Code 1983,
29 is amended to read as follows:

30 4. "Crime" means conduct that occurs or is
31 attempted in this state, poses a substantial threat
32 of personal injury or death, and is punishable as
33 a felony, an aggravated misdemeanor, or a serious
34 misdemeanor, or would be so punishable but for the
35 fact that the person engaging in the conduct lacked
36 the capacity to commit the crime under the laws of
37 this state. "Crime" does not include conduct arising
38 out of the ownership, maintenance, or use of a motor
39 vehicle, motorcycle, motorized bicycle, train, boat,
40 or aircraft except for violations of section 321.281
41 or when the intention is to cause personal injury
42 or death. A plea or verdict of guilty of a charge
43 under section 321.281 or a license revocation under
44 section 321B.13 or 321B.16 shall be considered by
45 the department as evidence of a violation of section
46 321.281 for the purposes of this chapter.

47 Sec. 22. Section 912.6, Code 1983, is amended
48 to read as follows:

49 912.6 COMPUTATION OF REPARATION. The commissioner
50 shall make reparation, as appropriate, for any of

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1 the following economic losses incurred as a direct
2 result of an injury to or death of the victim, ~~not~~
3 ~~to exceed two thousand dollars per victim unless~~
4 ~~otherwise specified:~~

5 1. Reasonable charges incurred for medical care
6 not to exceed ten thousand dollars.

7 2. Loss of income from work the victim would have
8 performed and for which the victim would have received
9 compensation ~~for~~ if the victim had not been injured
10 not to exceed two thousand dollars.

11 3. Reasonable replacement value of clothing that
12 is held for evidentiary purposes, ~~but~~ not to exceed
13 one hundred dollars.

14 4. Reasonable funeral and burial expenses not
15 to exceed ~~one~~ two thousand five hundred dollars.

16 5. Loss of support for dependents resulting from
17 death or a period of disability of the victim of sixty
18 days or more not to exceed two thousand dollars per
19 dependent or a total of six thousand dollars.

20 Sec. 23. Chapter 912, Code 1983, is amended by
21 adding the following new section:

22 NEW SECTION. VICTIM REPARATION FUND. The money
23 collected and deposited under section 321B.30 and
24 remaining in the fund at the end of any annual or
25 biennial period shall not revert to the state general
26 fund but shall remain available for the payment of
27 claims under this chapter. This fund is in addition
28 to and may be supplemented by appropriations from
29 the general assembly for the payment of claims or
30 operational expenses of the program.

31 Sec. 24. Section 912.13, Code 1983, is repealed.

32 Sec. 25. Section 23 of this Act, being deemed
33 of immediate importance, takes effect from and after
34 the Act's publication in the Onawa Democrat, a
35 newspaper published in Onawa, Iowa and in the Diamond
36 Trail News, a newspaper published in Sully, Iowa.

37 Sec. 26. STUDY COMMITTEE CREATED.

38 1. There is established a committee to study the
39 laws and penalties relating to operating motor vehicles
40 while intoxicated composed of ten members. The members
41 shall be appointed as follows:

42 a. The chief justice of the supreme court shall
43 select one judge to be a member and chair the
44 committee.

45 b. The Iowa county attorneys association shall
46 select one member of their organization as a member.

47 c. The Iowa public defenders association shall
48 select one member of their organization as a member.

49 d. The department of public safety shall select
50 an employee as a member.

1 e. The department of transportation shall select
2 an employee of that department as a member.
3 f. The Iowa department of justice shall select
4 an employee of that department as a member.
5 g. The Iowa department of substance abuse shall
6 select an employee as a member.
7 h. The legislative council shall select an attorney
8 experienced in the defense of those charged with
9 driving while intoxicated as a member.
10 i. The legislative council shall select a person
11 with professional experience in substance abuse
12 treatment as a member.
13 j. The legislative council shall appoint one
14 member of the legislature as a member.
15 All members of the study committee shall be
16 appointed not later than thirty days from the effective
17 date of this Act. The study committee shall hold
18 its organizational meeting not more than thirty days
19 following the appointment of its membership.
20 2. Public members of the study committee shall
21 receive a per diem of forty dollars and be reimbursed
22 for their travel and other necessary expenses actually
23 incurred in the performance of their official duties.
24 Public employees who are members of the study committee
25 shall be reimbursed for travel and other expenses
26 actually incurred in the performance of their official
27 duties.
28 3. The study committee shall conduct a
29 comprehensive study of the laws and penalties presently
30 in the Code relating to the operation of a motor
31 vehicle by a person who is intoxicated and make
32 recommendations for any changes in the law the
33 committee deems necessary. The study committee may
34 request assistance of any state or local government
35 agency to obtain any data or other information which
36 the study committee deems necessary to carry out its
37 duties. The state and local government agencies shall
38 provide any assistance requested by the study
39 committee.
40 4. The study committee may request that the
41 legislative council provide staff for the study
42 committee from the staff of the legislative service
43 bureau and the legislative fiscal bureau.
44 5. The study committee shall transmit copies of
45 its final report to the general assembly on January
46 14, 1985. The final report shall include findings
47 of fact and its recommendations and relevant data
48 gathered by and for the committee.
49 Sec. 27. The beer and liquor control commission
50 shall submit to the general assembly on January 14,

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1 1985, its recommendations for a revised schedule of
2 civil penalties to be assessed upon licensees or
3 permittees in the alternative to other penalties for
4 violations of section 123.49 as established in section
5 1 of this Act. The proposed schedule of civil
6 penalties shall be graduated on a proportional basis
7 on both the annual dollar amount of beer and liquor
8 sales conducted by the licensee or permittee and on
9 the order of the violation as a first, second, or
10 third offense."

11 2. Title page, by striking lines 1 through 5 and
12 inserting in lieu thereof the following: "An Act
13 relating to the offense of operating a motor vehicle
14 while intoxicated by providing civil penalties to
15 be assessed against licensees or permittees, by
16 requiring the dismissal of vendors for selling alcohol
17 to a minor, by providing a definition of alcohol con-
18 centration, by providing a special license for persons
19 age nineteen and under, by providing a fine or
20 community service in addition to imprisonment for
21 a first offense and requiring a substance abuse
22 evaluation for a second or subsequent offense of
23 operating a motor vehicle while intoxicated, by
24 providing additional periods of revocation for drivers
25 convicted of operating a motor vehicle while
26 intoxicated who caused an accident in which there
27 was a serious injury or death, by providing for
28 restitution by offending drivers for any damage caused,
29 by providing a special revocation period for persons
30 age nineteen or under, by providing a civil penalty
31 to be assessed against persons convicted of operating
32 a motor vehicle while intoxicated to be used to finance
33 the victim reparation fund, by providing access to
34 the record of previous deferred judgments by county
35 attorneys, and by establishing a study committee to
36 conduct a study on present laws and penalties relating
37 to the offense of operating a motor vehicle while
38 intoxicated and make any recommendations for changes
39 in the law in a report to the general assembly."

S-6028 FILED
APRIL 19, 1984

RECEIVED FROM THE HOUSE

Senate concurred 4/19 (J. 1704)



OFFICE OF THE GOVERNOR

STATE CAPITOL

DES MOINES, IOWA 50319

515 281-5211

TERRY E. BRANSTAD
GOVERNOR

May 14, 1984

The Honorable Mary Jane Odell
Secretary of State
State Capitol Building
L O C A L

Dear Madam Secretary:

I hereby transmit House File 2486, an act relating to the offense of operating a motor vehicle while intoxicated by providing civil penalties to be assessed against licensees or permittees, by requiring the dismissal of vendors for selling alcohol to a minor, by providing a definition of alcohol concentration, by providing a special license for persons age nineteen and under, by providing a fine or community service in addition to imprisonment for a first offense and requiring a substance abuse evaluation for a second or subsequent offense of operating a motor vehicle while intoxicated, by providing additional periods of revocation for drivers convicted of operating a motor vehicle while intoxicated who caused an accident in which there was a serious injury or death, by providing for restitution by offending drivers for any damage caused, by providing a special revocation period for persons age nineteen or under, by providing a civil penalty to be assessed against persons convicted of operating a motor vehicle while intoxicated to be used to finance the victim reparation fund, by providing access to the record of previous deferred judgments by county attorneys, and by establishing a study committee to conduct a study on present laws and penalties relating to the offense of operating a motor vehicle while intoxicated and make any recommendations for changes in the law in a report to the General Assembly.

House File 2486 is approved May 14, 1984, with the following exceptions which I hereby disapprove.

I am unable to approve the items designated in the Act as Section 1, New Subsection 4, and Section 23 which read as follows:

Section 1. Section 123.50, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 4. The department shall adopt rules to establish civil penalties in the amount of one hundred dollars for a first offense, two hundred fifty dollars for a second offense, and five hundred dollars for a third offense which the department shall, subject to the discretion of the director, assess against licensees or permittees for violations of section 123.49 as an alternative to other penalties fixed for such violations by this section. Money collected from penalties assessed under this subsection shall be deposited with the Iowa department of substance abuse for use in substance abuse treatment programs.

Sec. 23. Chapter 912, Code 1983, is amended by adding the following new section:

NEW SECTION. VICTIM REPARATION FUND. The money collected and deposited under section 321B.30 and remaining in the fund at the end of any annual or biennial period shall not revert to the state general fund but shall remain available for the payment of claims under this chapter. This fund is in addition to and may be supplemented by appropriations from the general assembly for the payment of claims or operational expenses of the program.

These earmarking provisions make a direct, ongoing appropriation to the Department of Substance Abuse and the Victim Reparation Fund. They result in the loss of oversight on the appropriations process by the executive and legislative branches of State Government. The funds not paid out in claims should be allowed to revert to the General Fund like other appropriations.

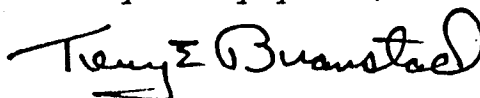
I am disappointed that, despite my earlier veto of the Victim Reparation Fund because of a similar earmarking provision, the majority in the General Assembly rejected several attempts to continue the Victim Reparation Program without earmarking.

The earmarking of funds directly from a source of revenue to an expenditure with a provision preventing any reversion to the state General Fund is an ongoing appropriation. Earmarking is a bad policy that has been consistently opposed by recent Iowa Governors. As I stated in my veto message of Senate File 2270 on April 13, 1984, "earmarking funds would set a troublesome precedent for the future."

The Honorable Mary Jane Odell
May 14, 1984
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For these reasons, I respectfully disapprove of the language designated above in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of House File 2486 are hereby approved as of this date.

Very truly yours,

A handwritten signature in dark ink, reading "Terry E. Branstad". The signature is written in a cursive style with a large, looped "T" and a stylized "B".

Terry E. Branstad
Governor

TEB/ps

cc: Secretary of the Senate
Chief Clerk of the House

HOUSE FILE 2486

AN ACT

RELATING TO THE OFFENSE OF OPERATING A MOTOR VEHICLE WHILE INTOXICATED BY PROVIDING CIVIL PENALTIES TO BE ASSESSED AGAINST LICENSEES OR PERMITTEES, BY REQUIRING THE DISMISSAL OF VENDORS FOR SELLING ALCOHOL TO A MINOR, BY PROVIDING A DEFINITION OF ALCOHOL CONCENTRATION, BY PROVIDING A SPECIAL LICENSE FOR PERSONS AGE NINETEEN AND UNDER, BY PROVIDING A FINE OR COMMUNITY SERVICE IN ADDITION TO IMPRISONMENT FOR A FIRST OFFENSE AND REQUIRING A SUBSTANCE ABUSE EVALUATION FOR A SECOND OR SUBSEQUENT OFFENSE OF OPERATING A MOTOR VEHICLE WHILE INTOXICATED, BY PROVIDING ADDITIONAL PERIODS OF REVOCATION FOR DRIVERS CONVICTED OF OPERATING A MOTOR VEHICLE WHILE INTOXICATED WHO CAUSED AN ACCIDENT IN WHICH THERE WAS A SERIOUS INJURY OR DEATH, BY PROVIDING FOR RESTITUTION BY OFFENDING DRIVERS FOR ANY DAMAGE CAUSED, BY PROVIDING A SPECIAL REVOCATION PERIOD FOR PERSONS AGE NINETEEN OR UNDER, BY PROVIDING A CIVIL PENALTY TO BE ASSESSED AGAINST PERSONS CONVICTED OF OPERATING A MOTOR VEHICLE WHILE INTOXICATED TO BE USED TO FINANCE THE VICTIM REPARATION FUND, BY PROVIDING ACCESS TO THE RECORD OF PREVIOUS DEFERRED JUDGMENTS BY COUNTY ATTORNEYS, AND BY ESTABLISHING A STUDY COMMITTEE TO CONDUCT A STUDY ON PRESENT LAWS AND PENALTIES RELATING TO THE OFFENSE OF OPERATING A MOTOR VEHICLE WHILE INTOXICATED AND MAKE ANY RECOMMENDATIONS FOR CHANGES IN THE LAW IN A REPORT TO THE GENERAL ASSEMBLY.

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

Section 1. Section 123.50, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 4. The department shall adopt rules to establish civil penalties in the amount of one hundred dollars

for a first offense, two hundred fifty dollars for a second offense, and five hundred dollars for a third offense which the department shall, subject to the discretion of the director, assess against licensees or permittees for violations of section 123.49 as an alternative to other penalties fixed for such violations by this section. Money collected from penalties assessed under this subsection shall be deposited with the Iowa department of substance abuse for use in substance abuse treatment programs.

NEW SUBSECTION. 5. Upon the conviction of a person acting as a vendor, as defined in section 123.24, subsection 1, for a violation of section 123.47 while in the course of the person's employment at the state liquor store, the director shall dismiss the person from the position as vendor if the person has failed to follow procedures developed by the director to prevent sales to minors.

Sec. 2. Section 321.1, Code Supplement 1983, is amended by adding the following new subsections:

NEW SUBSECTION. "Alcohol concentration" means the number of grams of alcohol per any of the following:

- a. One hundred milliliters of blood.
- b. Two hundred ten liters of breath.
- c. Sixty-seven milliliters of urine.

NEW SUBSECTION. "Alcoholic beverage" includes alcohol, wine, spirits, beer, or any other beverage which contains ethyl alcohol and is fit for human consumption.

Sec. 3. Section 321.189, subsection 1, Code 1983, is amended by inserting after unnumbered paragraph 1 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A motor vehicle license or a nonoperator's identification card issued to a person under nineteen years of age shall be identical in form to any other motor vehicle license or nonoperator's identification card issued to any other person, except that the photograph appearing on the face of the license or card shall be a side profile of the applicant. Upon attaining the age of nineteen,

and upon the payment of a one dollar fee, the person shall be entitled to a new motor vehicle license or nonoperator's identification card for the unexpired months of the motor vehicle license or the nonoperator's identification card. This paragraph is effective for licenses or cards issued after the effective date of this Act.

Sec. 4. Section 321.281, subsections 1 and 2, Code 1983, is amended to read as follows:

1. A person shall not operate a motor vehicle ~~upon the public-highways-of~~ in this state in either of the following conditions:

a. While under the influence of an alcoholic beverage, ~~a-narcotic,--hypnotic,~~ or other drug, or any a combination of such substances.

b. While having an alcohol concentration of thirteen hundredths or more of one-percent-by-weight-of-alcohol-in the-blood.

2. A person convicted of a violation of this section, upon conviction or a plea of guilty, is guilty of:

a. A serious misdemeanor for the first offense and shall be imprisoned in the county jail for not less than forty-eight hours to be served as ordered by the court, less credit for any time the person was confined in a jail or detention facility following arrest and assessed a fine of not less than five hundred dollars nor more than one thousand dollars. As an alternative to the fine, the court may order the person to perform not less than fifty nor more than two hundred hours of unpaid community service. The court may accommodate the sentence to the work schedule of the defendant.

b. An aggravated misdemeanor for a second offense and shall be imprisoned in the county jail or community-based correctional facility not less than seven days, which minimum term cannot be suspended notwithstanding section 901.5, subsection 3 and section 907.3, subsection 2 and assessed a fine of not less than seven hundred fifty dollars.

c. A class "D" felony for a third offense and each subsequent offense and assessed a fine of not less than seven hundred fifty dollars.

No conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall be considered in determining that the violation charged is a second, third or subsequent offense. For the purpose of determining if a violation charged is a second, third, or subsequent offense, a deferred judgment pursuant to section 907.3 for an offense under this section shall be counted as a previous violation.

On a conviction for a second or subsequent offense in violation of this section, the court shall order the defendant to undergo a substance abuse evaluation and the court may order the defendant to follow the recommendations proposed in the substance abuse evaluation for appropriate substance abuse treatment for the defendant. Court ordered substance abuse treatment is subject to the periodic reporting requirements of section 125.86. If a defendant is committed by the court to a substance abuse treatment facility, the administrator of the facility shall report to the court when it is determined that the defendant has received the maximum benefit of treatment at the facility and the defendant shall be released from the facility. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence. The court may prescribe the length of time for the evaluation and treatment or it may request that the treatment program to which the person is committed immediately report to the court when the person has received maximum benefit from the treatment program or has recovered from the person's addiction, dependency, or tendency to chronically abuse alcohol or drugs. A person committed under this section who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part shall be considered a state patient and the costs

of treatment shall be paid as provided in section 125.44. A defendant who fails to carry out the order of the court or who fails to successfully complete or attend an ordered substance abuse treatment program shall be confined in the county jail for twenty days in addition to any other imprisonment ordered by the court or may be ordered to perform unpaid community service work, and shall be placed on probation for one year with a violation of this probation punishable as contempt of court.

Sec. 5. Section 321.281, subsections 7 and 8, Code 1983, are amended to read as follows:

7. This section does not apply to a person operating a motor vehicle while under the influence of a ~~narcotic,~~ ~~hypnotic,~~ ~~or other~~ drug if ~~such substances were~~ the substance was prescribed for the person and ~~were~~ was taken under the prescription and in accordance with the directions of a medical practitioner as defined in section 155.3, subsection 11, if there is no evidence of the consumption of alcohol and the medical practitioner had not directed the person to refrain from operating a motor vehicle.

8. In any prosecution under this section, evidence of the results of analysis of a specimen of the defendant's blood, breath, ~~saliva,~~ or urine is admissible upon proof of a proper foundation. In an action in which a violation ~~of~~ by the means described in subsection 1, paragraph "a" of this section is alleged, evidence that ~~there was, at the time,~~ the defendant had an alcohol concentration of ten hundredths or more ~~of one percent by weight of alcohol in the defendant's~~ blood is presumptive evidence that the defendant was under the influence of an alcoholic beverage.

Sec. 6. Section 321.281, subsection 9, Code 1983, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. Upon a plea or verdict of guilty of a violation of this section during the occurrence of which there was an accident causing a serious injury in which the defendant was judged to be at fault, the court in which the

plea was entered or the verdict was returned shall order that the defendant's license or permit to operate motor vehicles be revoked by the department and that the defendant shall remain ineligible for a new license or permit for a period of one year in addition to any other period of suspension. Any license or permit to operate motor vehicles held by the defendant shall be surrendered to the court who shall forward it to the department with a copy of the order for revocation. A person whose license to operate a motor vehicle has been revoked pursuant to this subsection may be issued a temporary restricted driving permit by the department allowing the person to drive to and from the person's home and place of employment and in the course of the person's employment upon the completion by the defendant of a substance abuse evaluation under section 125.33 and completion of a program of treatment if recommended.

NEW PARAGRAPH. e. Upon a plea or verdict of guilty of a violation of this section during the occurrence of which there was an accident which caused a loss of life for which the defendant was judged to be at fault, the court in which the plea was entered or the verdict was returned shall order that the defendant's license or permit to operate motor vehicles be revoked by the department and that the defendant for a period of six years shall not be eligible for a new license or permit. Any license or permit to operate motor vehicles held by the defendant shall be surrendered to the court who shall forward it to the department with a copy of the order for revocation.

Sec. 7. Section 321.281, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. 10. The court shall order a defendant convicted of a violation of this section to make restitution for damages resulting directly from the violation.

NEW SUBSECTION. If a defendant is convicted of a first offense of this section and the defendant's license or permit to operate a motor vehicle is revoked under section 321.209

or chapter 321B for the occurrence from which the arrest arose, the period of revocation shall be the period provided for such a revocation or until the defendant reaches the age of nineteen whichever period is longer. A person whose license to operate a motor vehicle is revoked pursuant to this subsection may be issued a temporary restricted driving permit by the department allowing the person to drive to and from the person's home and place of employment and in the course of the person's employment and to attend evaluation, treatment or educational services for alcohol or drug dependency.

NEW SUBSECTION. A person whose motor vehicle license was revoked under this section or under chapter 321B who has been ordered by the court to perform community service work as a result of a violation of this section may be issued a temporary restricted driving permit by the department to allow the person to drive to and from the person's home and the location at which the community service work will be performed.

Sec. 8. Section 321B.1, Code 1983, is amended to read as follows:

321B.1 DECLARATION OF POLICY. The general assembly declares that this chapter is necessary to aid the enforcement of laws prohibiting operation of a motor vehicle while under the influence of an alcoholic beverage, ~~a-narcotic, hypnotic,~~ or other drug or ~~any a~~ combination of such substances, or while having an alcohol concentration of a certain amount of alcohol in the blood or more.

Sec. 9. Section 321B.2, unnumbered paragraph 2, Code 1983, is amended to read as follows:

As used in this chapter and sections 29B.106, ~~321.209,~~ and 321.281, ~~321.494 and 690.2~~ the words "alcoholic beverage" include and alcohol, wine, spirits, beer, or any other beverage which contains ethyl alcohol and is fit for human consumption concentration means as defined in section 321.1.

Sec. 10. Section 321B.4, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Any person who operates a motor vehicle in this state ~~upon a public highway~~ under circumstances which give reasonable grounds to believe that the person ~~to have~~ has been operating a motor vehicle in violation of section 321.281, is deemed to have given consent to the withdrawal of specimens of the person's blood, breath, ~~saliva,~~ or urine, and to a chemical test or tests of the specimens for the purpose of determining ~~the alcoholic content of the blood~~ alcohol concentration or presence of drugs, subject to this section. The withdrawal of the body substances and the test or tests shall be administered at the written request of a peace officer having reasonable grounds to believe that the person ~~to have been~~ was operating a motor vehicle in violation of section 321.281, and if any of the following conditions exist:

Sec. 11. Section 321B.4, subsection 1, paragraph d, Code 1983, is amended to read as follows:

d. The preliminary breath screening test was administered and it ~~recorded~~ indicated an alcohol concentration of ten hundredths or more of one percent by weight of alcohol in the blood.

Sec. 12. Section 321B.12, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

321B.12 STATEMENT OF OFFICER. A person who has been requested to submit to a chemical test shall be advised by a peace officer of the following:

1. If the person refuses to submit to the test, the person's license or operating privilege will be revoked by the department for the applicable period under section 321B.13.

2. If the person submits to the test and the results indicate an alcohol concentration of ten hundredths or more, the person's license or operating privilege will be revoked by the department for the applicable period under section 321B.16.

This section does not apply in any case involving a person described in section 321B.11.

Sec. 13. Section 321B.13, Code 1983, is amended to read as follows:

321B.13 REFUSAL TO SUBMIT. If a person refuses to submit to the chemical testing, a test shall not be given, but the department, upon the receipt of a sworn report of the peace officer that the officer had reasonable grounds to believe the person to have been operating a motor vehicle in violation of section 321.281, that specified conditions existed for chemical testing pursuant to section 321B.4, and that the person had refused to submit to the chemical testing, shall revoke the person's license or permit to drive and any nonresident operating privilege for a period of ~~one~~ two hundred ~~eighty~~ forty days if the person has no previous revocation under section 321.209, subsection 2, section 321.281, or this chapter; ~~one-year-if-the-person-has-one-previous-revocation-under-these-provisions;~~ and five hundred forty days if the person has ~~two~~ one or more previous revocations under those provisions; or 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, subject to review as provided in this chapter. The effective date of revocation shall be twenty days after the department has mailed notice of revocation to the person by certified mail or, on behalf of the department, a peace officer offering or directing the administration of a chemical test may serve immediate notice of intention to revoke and of revocation on a person who refuses to permit chemical testing. If the peace officer serves that immediate notice, the peace officer shall take the Iowa license or permit of the driver, if any, and issue a temporary license effective for only twenty days. The peace officer shall immediately send the person's license to the department along with an affidavit indicating the person's refusal to submit to chemical testing.

The department may, on application, issue a temporary restricted license to a person whose license has been subject

to revocation under section 321.209, subsection 2, section 321.281, or this chapter, for a second or subsequent time to allow the person to drive to and from the person's home and place of employment, in the course of the person's employment, and to attend evaluation, treatment or educational services for alcohol or drug dependency, upon expiration of the first three hundred and sixty days of the person's period of revocation.

Sec. 14. Section 321B.13, Code 1983, is amended by adding the following new unlettered paragraph:

NEW UNLETTERED PARAGRAPH. The department may, on application, issue a temporary restricted license to a person whose license has been revoked under this section and who has entered a plea of guilty to a charge under section 321.281 when the person's regular employment includes the operation of a motor vehicle or who cannot perform the person's regular occupation without the use of a motor vehicle, or when the person's use of a motor vehicle is necessary to attend evaluation, treatment or educational services for alcohol or drug dependency, or to attend court ordered community service, but the person shall not operate a vehicle for pleasure while holding a restricted license. However, this paragraph does not apply to a person whose license is suspended or revoked for another reason.

Sec. 15. Section 321B.15, Code 1983, is amended to read as follows:

321B.15 TAKING SAMPLE FOR TEST. Only a licensed physician, physician's assistant as defined in section 148C.1, subsection 6, medical technologist or registered nurse, acting at the request of a peace officer, may withdraw ~~body-substances a~~ specimen of blood for the purpose of determining the ~~alcoholic~~ alcohol concentration ~~or drug content of the person's blood~~ or the presence of drugs. However, any peace officer, using devices and methods approved by the commissioner of public safety, may take a specimen of a person's breath or urine for the purpose of determining the ~~alcoholic or drug content~~

~~of-the-person's-blood~~ alcohol concentration or the presence of drugs. Only new, originally factory wrapped, disposable syringes and needles, kept under strictly sanitary and sterile conditions shall be used for drawing blood.

PARAGRAPH DIVIDED. The person may have an independent chemical test or tests administered by a person of the person's own choosing and at the person's own expense in addition to any administered at the direction of a peace officer. The failure or inability of the person to obtain an independent chemical test or tests does not preclude the admission in of evidence of the results of the test or tests taken administered at the direction of the peace officer. Upon the request of the person who is tested, the results of the test or tests ~~taken~~ administered at the direction of the peace officer shall be made available to the person.

Sec. 16. Section 321B.16, Code 1983, is amended to read as follows:

321B.16 TEST RESULT REVOCATION. Upon certification by the peace officer that there existed reasonable grounds to believe that the person to-have had been operating a motor vehicle in violation of section 321.281, that there existed one or more of the necessary conditions for chemical testing described in section 321B.4, subsection 1, and that the person submitted to chemical testing and the test results ~~indicate~~ indicated an alcohol concentration of ten hundredths or more of-one-percent-by-weight-of-alcohol-in-the-person's-blood, the department shall revoke the person's license or permit to drive or nonresident operating privilege for a period of one hundred ~~twenty eighty~~ days if the person has had no revocation within the previous six years under section 321.209, subsection 2, section 321.281 or this chapter, ~~two-hundred forty-days-if-the-person-has-one-previous-revocation-under these-provisions,~~ and one year if the person has two had one or more previous revocations under those provisions arising from separate occurrences.

The effective date of the revocation shall be twenty days after the department has mailed notice of revocation to the person by certified mail ~~or-on-behalf-of-the-department,~~ a. The peace officer offering-a-chemical-test-or-directing who requested or directed the administration of a the chemical test may, on behalf of the department, serve immediate notice ~~of-intention-to-revoke-and~~ of revocation on a person when the-person's whose test results ~~indicate~~ indicated an alcohol concentration of ten hundredths or more of-one-percent-by weight-of-alcohol-in-the-blood.

If the peace officer serves that immediate notice, the peace officer shall take the person's Iowa license or permit ~~of-the-driver,~~ if any, and issue a temporary license valid only for twenty days. The peace officer shall immediately send the person's driver's license to the department along with an-affidavit-stating the officer's certificate indicating that the test results ~~indicate~~ indicated an alcohol concentration of ten hundredths of-one-percent or more by weight-of-alcohol-in-the-person's-blood.

The department may, on application, issue a temporary restricted license to a the person whose license has been revoked ~~under-this-section~~ when the person's regular employment includes the operation of a motor vehicle or who the person cannot perform his or her regular occupation without the use of a motor vehicle, or when the person's use of a motor vehicle is necessary to attend evaluation, treatment or educational services for alcohol or drug dependency, but the person shall not operate a vehicle for pleasure while holding a restricted license. However, this paragraph does not apply to a person whose license is suspended or revoked for another reason.

Sec. 17. Section 321B.26, Code 1983, is amended to read as follows:

321B.26 HEARING. Upon the written request of a person whose privilege to drive has been revoked or denied, or who has been issued a twenty-day license pursuant to section 321B.13 or section 321B.16, the department shall grant the

person an opportunity to be heard within twenty days after the receipt of the request, but the request must be made within ten days of the effective date of revocation or denial of driving privileges or the issuance of a temporary permit license. The hearing shall be before the department in the county where the alleged events occurred, unless the director and the person agree that the hearing may be held in some other county. The hearing may be recorded and its scope shall never be limited to the issues of whether a peace officer had reasonable grounds to believe that the person ~~to have been was~~ operating a motor vehicle in violation of section 321.281~~7-whether~~ and either of the following:

a. Whether the person refused to submit to the test or tests~~7~~.

b. Whether a test was administered and the test results if a person consented to a test and whether the person should be issued a temporary restricted license indicated an alcohol concentration of ten hundredths or more.

PARAGRAPH DIVIDED. The department shall order that the revocation or denial be either rescinded or sustained.

Sec. 18. Section 321B.28, Code 1983, is amended to read as follows:

321B.28 EVIDENCE IN ANY ACTION. Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any a person while operating a motor vehicle in violation of section 321.281, evidence of the ~~amount of~~ alcohol concentration or the presence of drugs in the person's ~~blood~~ body substances at the time of the act alleged as shown by a chemical analysis of the person's blood, breath, ~~saliva~~ or urine is admissible. If it is established at trial that an analysis of a breath specimen was performed by a certified operator using a device and methods approved by the commissioner of public safety, no further foundation is necessary for introduction of the evidence.

Sec. 19. NEW SECTION. 321B.30 CIVIL PENALTY--VICTIM REPARATION FUND. When the department revokes a person's license or operating privilege under this chapter, the department shall assess the person a civil penalty of one hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in a separate fund dedicated to and used for the purposes of chapter 912. A temporary restricted license shall not be issued or a license or privilege to drive reinstated until the civil penalty has been paid.

Sec. 20. Section 907.4, Code 1983, is amended to read as follows:

907.4 DEFERRED JUDGMENT DOCKET. Any deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court to the supreme court administrator who shall maintain a permanent record thereof including the name of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment against the defendant. The permanent record provided for in this section shall constitute a confidential record exempted from public access under section 68A.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, and judicial magistrates, and county attorneys requesting information pursuant to this section or the designee of such justice, judge, ~~or~~ magistrate, or county attorney.

Sec. 21. Section 912.1, subsection 4, Code 1983, is amended to read as follows:

4. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony, an aggravated misdemeanor, or a serious misdemeanor, or would be so

punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of section 321.281 or when the intention is to cause personal injury or death. A plea or verdict of guilty of a charge under section 321.281 or a license revocation under section 321B.13 or 321B.16 shall be considered by the department as evidence of a violation of section 321.281 for the purposes of this chapter.

Sec. 22. Section 912.6, Code 1983, is amended to read as follows:

912.6 COMPUTATION OF REPARATION. The commissioner shall make reparation, as appropriate, for any of the following economic losses incurred as a direct result of an injury to or death of the victim, ~~not to exceed two thousand dollars per victim unless otherwise specified:~~

1. Reasonable charges incurred for medical care not to exceed ten thousand dollars.
2. Loss of income from work the victim would have performed and for which the victim would have received compensation ~~for~~ if the victim had not been injured not to exceed two thousand dollars.
3. Reasonable replacement value of clothing that is held for evidentiary purposes, ~~but~~ not to exceed one hundred dollars.
4. Reasonable funeral and burial expenses not to exceed one two thousand five hundred dollars.
5. Loss of support for dependents resulting from death or a period of disability of the victim of sixty days or more not to exceed two thousand dollars per dependent or a total of six thousand dollars.

Sec. 23. Chapter 912, Code 1983, is amended by adding the following new section:

NEW SECTION. VICTIM REPARATION FUND. The money collected and deposited under section 321B.30 and remaining in the fund at the end of any annual or biennial period shall not revert to the state general fund but shall remain available for the payment of claims under this chapter. This fund is in addition to and may be supplemented by appropriations from the general assembly for the payment of claims or operational expenses of the program.

Sec. 24. Section 912.13, Code 1983, is repealed.

Sec. 25. Section 24 of this Act, being deemed of immediate importance, takes effect from and after the Act's publication in the Onawa Democrat, a newspaper published in Onawa, Iowa, and in the Diamond Trail News, a newspaper published in Sully, Iowa.

Sec. 26. STUDY COMMITTEE CREATED.

1. There is established a committee to study the laws and penalties relating to operating motor vehicles while intoxicated composed of ten members. The members shall be appointed as follows:
 - a. The chief justice of the supreme court shall select one judge to be a member and chair the committee.
 - b. The Iowa county attorneys association shall select one member of their organization as a member.
 - c. The Iowa public defenders association shall select one member of their organization as a member.
 - d. The department of public safety shall select an employee as a member.
 - e. The department of transportation shall select an employee of that department as a member.
 - f. The Iowa department of justice shall select an employee of that department as a member.
 - g. The Iowa department of substance abuse shall select an employee as a member.
 - h. The legislative council shall select an attorney experienced in the defense of those charged with driving while intoxicated as a member.

i. The legislative council shall select a person with professional experience in substance abuse treatment as a member.

j. The legislative council shall appoint one member of the legislature as a member.

All members of the study committee shall be appointed not later than thirty days from the effective date of this Act. The study committee shall hold its organizational meeting not more than thirty days following the appointment of its membership.

2. Public members of the study committee shall receive a per diem of forty dollars and be reimbursed for their travel and other necessary expenses actually incurred in the performance of their official duties. Public employees who are members of the study committee shall be reimbursed for travel and other expenses actually incurred in the performance of their official duties.

3. The study committee shall conduct a comprehensive study of the laws and penalties presently in the Code relating to the operation of a motor vehicle by a person who is intoxicated and make recommendations for any changes in the law the committee deems necessary. The study committee may request assistance of any state or local government agency to obtain any data or other information which the study committee deems necessary to carry out its duties. The state and local government agencies shall provide any assistance requested by the study committee.

4. The study committee may request that the legislative council provide staff for the study committee from the staff of the legislative service bureau and the legislative fiscal bureau.

5. The study committee shall transmit copies of its final report to the general assembly on January 14, 1985. The final report shall include findings of fact and its recommendations and relevant data gathered by and for the committee.

Sec. 27. The beer and liquor control commission shall submit to the general assembly on January 14, 1985, its recommendations for a revised schedule of civil penalties to be assessed upon licensees or permittees in the alternative to other penalties for violations of section 123.49 as established in section 1 of this Act. The proposed schedule of civil penalties shall be graduated on a proportional basis on both the annual dollar amount of beer and liquor sales conducted by the licensee or permittee and on the order of the violation as a first, second, or third offense.

DONALD D. AVENSON
Speaker of the House

CHARLES P. MILLER
President Pro Tempore of the
Senate

I hereby certify that this bill originated in the House and is known as House File 2486, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

John Vetsa
Approved 5/14, 1984

TERRY E. BRANSTAD
Governor