

Reprinted 5/14/83

MAY 9 1983

HOUSE FILE 652

Judiciary & Law Enforcement

BY NORLAND and STROMER

Passed House, Date 5-13-83 (p. 2148) Passed Senate, Date 5-13-83

Vote: Ayes 92 Nays 2 Vote: Ayes 47 Nays 0

Approved June 7, 1983

A BILL FOR

1 An Act relating to the penalties for certain crimes including
2 the crime of operating a motor vehicle while under the
3 influence of alcohol or drugs or while having thirteen
4 hundredths or more of one percent of alcohol in the blood,
5 and the crime of false use of a financial instrument.

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

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HF 652

1 Section 1. Section 321.283, subsection 2, Code 1983, is
2 amended to read as follows:

3 2. COURT ORDER. After a conviction for, or a plea of
4 guilty of, a violation of section 321.281, the court in
5 addition to its power to commit the defendant for treatment
6 of alcoholism under section 321.281, may in lieu of, or prior
7 to or after the imposition of punishment for a first offense
8 or prior to or after the imposition of punishment for any
9 subsequent offense, order the defendant, at the defendant's
10 own expense, to enroll in, attend and successfully complete
11 a course for drinking drivers. The court ~~may-alternatively~~
12 ~~or shall~~ additionally require the defendant to seek evaluation,
13 treatment or rehabilitation services under section 125.33
14 at the defendant's expense and to furnish evidence of
15 successful completion. A copy of the order shall be forwarded
16 to the department.

17 Sec. 2. Section 715.6, Code 1983, is amended to read as
18 follows:

19 715.6 FALSE USE OF A FINANCIAL INSTRUMENT--PENALTIES.
20 The use of a financial instrument with the intent to obtain
21 fraudulently anything of value by one who knows that the
22 instrument is not what it purports to be, or who knows that
23 ~~he-or-she~~ one is not the person nor the authorized agent of
24 the person who, as shown on the instrument, has the right
25 to so use the instrument, ~~shall-constitute~~ constitutes the
26 false use of a financial instrument.

27 PARAGRAPH DIVIDED. False use of a financial instrument
28 with intent to obtain property exceeding five thousand dollars
29 in value, is false use of a financial instrument in the first
30 degree. False use of a financial instrument in the first
31 degree is a class "C" felony.

32 False use of a financial instrument with intent to obtain
33 property exceeding five hundred dollars but not exceeding
34 five thousand dollars in value or to obtain a motor vehicle
35 as defined in chapter 321, irrespective of value, is false

1 use of a financial instrument in the second degree. False
2 use of a financial instrument in the second degree is a class
3 "D" felony.

4 False use of a financial instrument with intent to obtain
5 property exceeding one hundred dollars but not exceeding five
6 hundred dollars in value, or the false use of a financial
7 instrument with intent to obtain any property not exceeding
8 one hundred dollars in value by one who has before been twice
9 convicted of false use of a financial instrument is false
10 use of a financial instrument in the third degree. False
11 use of a financial instrument in the third degree is an
12 aggravated misdemeanor.

13 False use of a financial instrument with intent to obtain
14 property exceeding fifty dollars in value but not exceeding
15 one hundred dollars in value is false use of a financial
16 instrument in the fourth degree. False use of a financial
17 instrument in the fourth degree is a serious misdemeanor.

18 False use of a financial instrument with intent to obtain
19 property not exceeding fifty dollars in value is false use
20 of a financial instrument in the fifth degree. False use
21 of a financial instrument in the fifth degree is a simple
22 misdemeanor.

23 The value of property for purposes of this section is its
24 normal market or exchange value within the community at the
25 time of the false use of a financial instrument with intent
26 to obtain the property. If money or property is sought to
27 be obtained by a series of false uses of financial instruments
28 from the same person or location, or from different persons
29 by a series of false uses of financial instruments which occur
30 in approximately the same location or time period so that
31 the attempts to obtain property are attributable to a single
32 scheme, plan or conspiracy, such false uses of financial
33 instruments may be considered a single false use of a financial
34 instrument and the value may be the total value of all the
35 property sought to be obtained."

EXPLANATION

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Section 1 of this bill mandates that the court require persons convicted of section 321.281 (operating a motor vehicle while intoxicated or drugged) to seek evaluation, treatment, or rehabilitation services at the defendant's expense.

Section 2 of this bill amends the penalty for the crime of false use of a financial instrument to make it parallel to the penalties for the degrees of theft.

The bill would take effect July 1 following its enactment.

H-4237

1 Amend House File 652 as follows:
2 By striking everything after the enacting clause
3 and inserting in lieu thereof the following:
4 "Section 1. Section 715.6, Code 1983, is amended,
5 to read as follows:
6 715.6 FALSE USE OF A FINANCIAL INSTRUMENT--
7 PENALTIES. The use of a financial instrument with
8 the intent to obtain fraudulently anything of value
9 by one a user who knows that the instrument is not
10 what it purports to be, or who knows that he-~~or-she~~
11 the user is not the person nor the authorized agent
12 of the person who, as shown on the instrument, has
13 the right to so use the instrument, ~~shall-constitute~~
14 constitutes the false use of a financial instrument.
15 PARAGRAPH DIVIDED. False use of a financial
16 instrument as defined in section 715.1, subsection
17 2, 3, or 4, is false use of a financial instrument
18 in the first degree. False use of a financial
19 instrument as defined in section 715.1, subsection
20 1, to obtain property one hundred dollars or more
21 in value, is false use of a financial instrument in
22 the first degree. False use of a financial instrument
23 in the first degree is a class "C" "D" felony.
24 False use of a financial instrument as defined
25 in section 715.1, subsection 1, to obtain property
26 not exceeding one hundred dollars in value, is false
27 use of a financial instrument in the second degree.
28 False use of a financial instrument in the second
29 degree is an aggravated misdemeanor.
30 The value of property for purposes of this section
31 is its normal market or exchange value within the
32 community at the time of the false use of a financial
33 instrument with intent to obtain the property. If
34 money or property is sought to be obtained by a series
35 of false uses of financial instruments from the same
36 person or location, or from different persons by a
37 series of false uses of financial instruments which
38 occur in approximately the same location or time
39 period so that the attempts to obtain property are
40 attributable to a single scheme, plan or conspiracy,
41 such false uses of financial instruments may be
42 considered a single false use of a financial instrument
43 and the value may be the total value of all the
44 property sought to be obtained."

BY JAY of Appanoose
McINTEE of Black Hawk
HALVORSON of Clayton
ROSENBERG of Story
SHERZAN of Polk

H-4237 FILED MAY 13, 1983
ADOPTED (p. 2148)

HOUSE FILE 652

H-4218

1 Amend House File 652 as follows:
2 1. By striking page 1, line 19 through page 2,
3 line 35, and inserting in lieu thereof the following:
4 "715.6 FALSE USE OF A FINANCIAL INSTRUMENT. The
5 use of a financial instrument with the intent to
6 obtain fraudulently anything of value by one who knows
7 that the instrument is not what it purports to be,
8 or who knows that ~~he-or-she~~ the user is not the person
9 nor the authorized agent of the person who, as shown
10 on the instrument, has the right to so use the
11 instrument, ~~shall-constitute~~ constitutes the false
12 use of a financial instrument. False use of a
13 financial instrument is a class "e" "D" felony."

BY McINTEE of Black Hawk
SCHROEDER of Pottawattamie
CHIODO of Polk
HALVORSON of Clayton
MILLER of Woodbury

H-4218 FILED MAY 12, 1983

Placed out of order 5/13/83 (p 2148)

HOUSE FILE 652

H-4239

1 Amend House File 652 as follows:
2 1. Title page, by striking lines 1 through 5 and
3 inserting in lieu thereof the following: "An Act
4 relating to the crime of false use of a financial
5 instrument and providing penalties."

H-4239 FILED MAY 13, 1983 BY SPEAR of Lee
ADOPTED BY UNANIMOUS CONSENT (*p 2148*)

HOUSE FILE 652

H-4172

- 1 Amend House File 652 as follows:
- 2 1. Page 2, line 35, by striking the word
- 3 "obtained." and inserting in lieu thereof the word
- 4 "obtained."

H-4172 FILED MAY 11, 1983
Placed out of order 5/13/83 (p. 2145)

BY SPEAR of Lee

HOUSE FILE 652

H-4174

- 1 Amend House File 652 as follows:
- 2 1, Page 1, by striking lines 3 through 16 and
- 3 inserting in lieu thereof the following:
- 4 "2. COURT ORDER ORDERS. After a conviction for,
- 5 or a plea of guilty of, a violation of section 321.281,
- 6 the court in addition to its power to commit the
- 7 defendant for treatment of alcoholism under section
- 8 321.281, may in lieu of, or prior to or after the
- 9 imposition of punishment for a first offense or prior
- 10 to or after the imposition of punishment for any
- 11 subsequent offense, order the defendant, at the
- 12 defendant's own expense, to enroll in, attend and
- 13 successfully complete a course for drinking drivers.
- 14 The After each conviction, or plea of guilty, of a
- 15 violation of section 321.281, the court may
- 16 alternatively-or-additionally-require shall order
- 17 the defendant to seek submit to an evaluation, and,
- 18 if recommended by the evaluation, a program of
- 19 treatment or rehabilitation services under section
- 20 125.33 at the defendant's expense and to furnish
- 21 evidence of successful completion. A copy of the
- 22 each order shall be forwarded to the department."

H-4174 FILED MAY 11, 1983
Placed out of order 5/13 (p. 2146)

BY ROSENBERG of Story

HOUSE FILE 652

H-4179

- 1 Amend House File 652 as follows:
- 2 1. Page 1, line 15 by inserting after the word
- 3 "completion." the following: "In-patient treatment
- 4 shall not be required upon defendants first conviction
- 5 or first plea of guilty to a violation of section
- 6 321.281."

BY SHERZAN of Polk

H-4179 FILED MAY 11, 1983 ROSENBERG of Story
Placed out of order 5/13 (p. 2148)

HOUSE FILE 652

H-4180

- 1 Amend H-4174 , to House File 652 as follows:
- 2 1. Page 1, line 21, by inserting after the word
- 3 "completion." the following: "In-patient treatment
- 4 shall not be required upon defendant's first conviction
- 5 or first plea of guilty to a violation of section
- 6 321.281."

BY SHERZAN of Polk

ROSENBERG of Story

H-4180 FILED MAY 11, 1983
Placed out of order 5/13 (p. 2148)

HOUSE FILE 652

H-4123

1 Amend House File 652 as follows:
 2 1. Page 1, by inserting after line 16 the
 3 following:
 4 "Sec. ____ Section 554.3507, Code 1983, is amended
 5 by adding the following new subsection:
 6 NEW SUBSECTION. 5. The holder of a dishonored
 7 instrument may assess a surcharge against the maker
 8 of the instrument. The surcharge may not exceed:
 9 a. Ten dollars for each dishonored instrument
 10 if the maker pays the amount due on the instrument
 11 within seven days of dishonor.
 12 b. Fifteen dollars for each dishonored instrument
 13 in an amount of less than one hundred dollars if the
 14 maker does not pay the amount on the instrument due
 15 within seven days of dishonor.
 16 c. Twenty dollars for each dishonored instrument
 17 in an amount of one hundred dollars or more if the
 18 maker does not pay the amount due on the instrument
 19 within seven days of dishonor.
 20 Sec. ____ Section 625.22, unnumbered paragraph
 21 2, Code 1983, is amended to read as follows:
 22 In an action against the maker to recover payment
 23 on a check, ~~or draft, or written instrument written~~
 24 ~~in violation of chapter 714 as defined in section~~
 25 554.3104, the plaintiff, if successful, may shall
 26 recover, in addition to all other costs or surcharges
 27 provided by law, all court costs incurred, including
 28 a reasonable attorney's fee, or an individual's cost
 29 of processing a small claims recovery such as lost
 30 time and transportation costs from the maker of the
 31 check, draft, or written instrument. In such an
 32 action by a person not represented by an attorney,
 33 the plaintiff, if successful, shall recover from the
 34 maker all court costs incurred and reasonable costs
 35 for processing the action including, but not limited
 36 to, the loss from a business or profession and
 37 transportation costs, in addition to all other costs
 38 or surcharges provided by law."

H-4123 FILED MAY 10, 1983 BY SCHOREDER of Pottawattamie
Placed out of order 5/13/83 (p. 2148)

HOUSE FILE 652

H-4134

1 Amend House File 652 as follows:
 2 1. Page 2, by striking lines 14 through 22 and
 3 inserting in lieu thereof the following: "property
 4 one hundred dollars or less in value is false use
 5 of a financial instrument in the fourth degree. False
 6 use of a financial instrument in the fourth degree
 7 is a serious misdemeanor."

H-4134 FILED MAY 10, 1983 BY COMMITTEE ON JUDICIARY
Placed out of order 5/13/83 (p. 2148) AND LAW ENFORCEMENT

*Amended 5/13/83 Amend per 3743
& Do Pass 5/13 (p. 1745?)*

HOUSE FILE 652
BY NORLAND and STROMER

(As Amended and Passed by the House)

Passed House, Date 5-14-83 (p. 2163) Passed Senate, Date 5-13-83 (p. 1746)

Vote: Ayes 92 Nays 1 Vote: Ayes 47 Nays 0

Approved June 7, 1983

A BILL FOR

1 An Act relating to the crime of false use of a financial
2 instrument and providing penalties.

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

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House Amendments _____

1 Section 1. Section 715.6, Code 1983, is amended to read
2 as follows:

3 715.6 FALSE USE OF A FINANCIAL INSTRUMENT--PENALTIES.
4 The use of a financial instrument with the intent to obtain
5 fraudulently anything of value by one a user who knows that
6 the instrument is not what it purports to be, or who knows
7 that he-or-she the user is not the person nor the authorized
8 agent of the person who, as shown on the instrument, has the
9 right to so use the instrument, shall-constitute constitutes
10 the false use of a financial instrument.

11 PARAGRAPH DIVIDED. False use of a financial instrument
12 as defined in section 715.1, subsection 2, 3, or 4, is false
13 use of a financial instrument in the first degree. False
14 use of a financial instrument as defined in section 715.1,
15 subsection 1, to obtain property one hundred dollars or more
16 in value, is false use of a financial instrument in the first
17 degree. False use of a financial instrument in the first
18 degree is a class "e" "D" felony.

19 False use of a financial instrument as defined in section
20 715.1, subsection 1, to obtain property not exceeding one
21 hundred dollars in value, is false use of a financial
22 instrument in the second degree. False use of a financial
23 instrument in the second degree is an aggravated misdemeanor.

24 The value of property for purposes of this section is its
25 normal market or exchange value within the community at the
26 time of the false use of a financial instrument with intent
27 to obtain the property. If money or property is sought to
28 be obtained by a series of false uses of financial instruments
29 from the same person or location, or from different persons
30 by a series of false uses of financial instruments which occur
31 in approximately the same location or time period so that
32 the attempts to obtain property are attributable to a single
33 scheme, plan or conspiracy, such false uses of financial
34 instruments may be considered a single false use of a financial
35 instrument and the value may be the total value of all the

1 property sought to be obtained.

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S-3943

1 Amend House File 652, as amended, passed and
2 reprinted by the House, as follows:

3 1. Page 2, by inserting after line 1 the following:
4 "Sec. 2. Section 903.1, Code 1983, is amended
5 to read as follows:

6 903.1 MAXIMUM SENTENCE FOR MISDEMEANANTS.

7 1. When a person is convicted of a simple or
8 serious misdemeanor and a specific penalty is not
9 provided for, the court shall determine the sentence,
10 and shall fix the period of confinement or the amount
11 of fine, if such be the sentence, within the following
12 limits:

13 ~~1. For an aggravated misdemeanor, imprisonment~~
14 ~~not to exceed two years, or a fine not to exceed five~~
15 ~~thousand dollars, or both.~~

16 ~~2. For a serious misdemeanor, imprisonment not~~
17 ~~to exceed one year, or a fine not to exceed one~~
18 ~~thousand dollars, or both.~~

19 3 a. For a simple misdemeanor, imprisonment not
20 to exceed thirty days, or a fine not to exceed one
21 hundred dollars.

22 b. For a serious misdemeanor, imprisonment not
23 to exceed one year, or a fine not to exceed one
24 thousand dollars, or both.

25 2. When a person is convicted of an aggravated
26 misdemeanor, and a specific penalty is not provided
27 for, the maximum penalty shall be imprisonment not
28 to exceed two years, or a fine not to exceed five
29 thousand dollars, or both. When a judgment of
30 conviction of an aggravated misdemeanor is entered
31 against any person and the court imposes a sentence
32 of confinement for a period of more than one year
33 the term shall be an indeterminate term.

34 Sec. 3. Section 2 of this Act amending section
35 903.1 of the Code, takes effect July 1, 1983, but
36 also applies retroactively to January 1, 1978."

37 2. Title page, line 1, by inserting after the
38 word "to" the words "the penalties for certain crimes
39 including crimes for which the penalty is an aggravated
40 misdemeanor and".

S-3943 FILED & ADOPTED
MAY 13, 1983 (p. 1745)

BY COMMITTEE ON JUDICIARY
DONALD DOYLE, CHAIR

SENATE AMENDMENT TO HOUSE FILE 652

H-4244

1 Amend House File 652, as amended, passed and
2 reprinted by the House, as follows:
3 1. Page 2, by inserting after line 1 the following:
4 "Sec. 2. Section 903.1, Code 1983, is amended
5 to read as follows:
6 903.1 MAXIMUM SENTENCE FOR MISDEMEANANTS.
7 1. When a person is convicted of a simple or
8 serious misdemeanor and a specific penalty is not
9 provided for, the court shall determine the sentence,
10 and shall fix the period of confinement or the amount
11 of fine, if such be the sentence, within the following
12 limits:
13 ~~1. For an aggravated misdemeanor, imprisonment~~
14 ~~not to exceed two years, or a fine not to exceed five~~
15 ~~thousand dollars, or both.~~
16 ~~2. For a serious misdemeanor, imprisonment not~~
17 ~~to exceed one year, or a fine not to exceed one~~
18 ~~thousand dollars, or both.~~
19 3 a. For a simple misdemeanor, imprisonment not
20 to exceed thirty days, or a fine not to exceed one
21 hundred dollars.
22 b. For a serious misdemeanor, imprisonment not
23 to exceed one year, or a fine not to exceed one
24 thousand dollars, or both.
25 2. When a person is convicted of an aggravated
26 misdemeanor, and a specific penalty is not provided
27 for, the maximum penalty shall be imprisonment not
28 to exceed two years, or a fine not to exceed five
29 thousand dollars, or both. When a judgment of
30 conviction of an aggravated misdemeanor is entered
31 against any person and the court imposes a sentence
32 of confinement for a period of more than one year
33 the term shall be an indeterminate term.
34 Sec. 3. Section 2 of this Act amending section
35 903.1 of the Code, takes effect July 1, 1983, but
36 also applies retroactively to January 1, 1978."
37 2. Title page, line 1, by inserting after the
38 word "to" the words "the penalties for certain crimes
39 including crimes for which the penalty is an aggravated
40 misdemeanor and".

H-4244 FILED MAY 13, 1983

RECEIVED FROM THE SENATE

House concurred 5/14/83 (p. 2162)

HOUSE FILE 652

AN ACT

RELATING TO THE PENALTIES FOR CERTAIN CRIMES INCLUDING CRIMES FOR WHICH THE PENALTY IS AN AGGRAVATED MISDEMEANOR AND THE CRIME OF FALSE USE OF A FINANCIAL INSTRUMENT AND PROVIDING PENALTIES.

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

Section 1. Section 715.6, Code 1983, is amended to read as follows:

715.6 FALSE USE OF A FINANCIAL INSTRUMENT--PENALTIES.

The use of a financial instrument with the intent to obtain fraudulently anything of value by ~~one~~ a user who knows that the instrument is not what it purports to be, or who knows that ~~he or she~~ the user is not the person nor the authorized agent of the person who, as shown on the instrument, has the right to so use the instrument, ~~shall constitute~~ constitutes the false use of a financial instrument.

PARAGRAPH DIVIDED. False use of a financial instrument as defined in section 715.1, subsection 2, 3, or 4, is false use of a financial instrument in the first degree. False use of a financial instrument as defined in section 715.1, subsection 1, to obtain property one hundred dollars or more in value, is false use of a financial instrument in the first degree. False use of a financial instrument in the first degree is a class "D" felony.

False use of a financial instrument as defined in section 715.1, subsection 1, to obtain property not exceeding one hundred dollars in value, is false use of a financial instrument in the second degree. False use of a financial instrument in the second degree is an aggravated misdemeanor.

The value of property for purposes of this section is its normal market or exchange value within the community at the

time of the false use of a financial instrument with intent to obtain the property. If money or property is sought to be obtained by a series of false uses of financial instruments from the same person or location, or from different persons by a series of false uses of financial instruments which occur in approximately the same location or time period so that the attempts to obtain property are attributable to a single scheme, plan or conspiracy, such false uses of financial instruments may be considered a single false use of a financial instrument and the value may be the total value of all the property sought to be obtained.

Sec. 2. Section 903.1, Code 1983, is amended to read as follows:

903.1 MAXIMUM SENTENCE FOR MISDEMEANANTS.

1. When a person is convicted of a simple or serious misdemeanor and a specific penalty is not provided for, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence, within the following limits:

~~1--For an aggravated misdemeanor, imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both.~~

~~2--For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.~~

3 a. For a simple misdemeanor, imprisonment not to exceed thirty days, or a fine not to exceed one hundred dollars.

b. For a serious misdemeanor, imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years, or a fine not to exceed five thousand dollars, or both. When a judgment of conviction of an aggravated misdemeanor is entered against

any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

Sec. 3. Section 2 of this Act amending section 903.1 of the Code, takes effect July 1, 1983, but also applies retroactively to January 1, 1978.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 652, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved June 7, 1983

TERRY E. BRANSTAD
Governor