

(P. 398) 3/1/94 Amend/Do Pass
w/ H 5115

FEB 1994
STATE GOVERNMENT

HOUSE FILE 2146
BY DAGGETT

Passed House, ^(P. 697) Date 3-17-94 Passed Senate, ^(P. 962) Date 3/31/94
Vote: Ayes 99 Nays 0 Vote: Ayes 47 Nays 3
Approved April 25, 1994

A BILL FOR

1 An Act relating to access to, and the possession of, alcoholic
2 beverages, and subjecting violators to existing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2146

HOUSE FILE 2146

H-5115

- 1 Amend House File 2146 as follows:
- 2 1. Page 1, by striking lines 1 through 6.
- 3 2. Page 1, line 10, by striking the word
- 4 "believes" and inserting the following: "concludes".
- 5 3. By renumbering as necessary.

By COMMITTEE ON STATE GOVERNMENT
CARPENTER of Polk, Chairperson

H-5115 FILED MARCH 1, 1994

Adopted 3-17-94 (P. 696)

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1 Section 1. Section 123.46, subsection 1, Code 1993, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. "Public place" includes, in addition to
4 its meaning specified in section 123.3, the interior of a
5 motor vehicle which is located on a public street or highway
6 or in a public parking lot.

7 Sec. 2. NEW SECTION. 123.47C SEIZURE OF FALSE OR ALTERED
8 IDENTIFICATION CARDS.

9 1. If a liquor control licensee or wine or beer permittee
10 or an employee of the licensee or permittee believes that an
11 identification card offered by a person who wishes to purchase
12 an alcoholic beverage at the licensed premises, is altered or
13 falsified or belongs to another person, the licensee,
14 permittee, or employee may retain the identification card as
15 seizable property pursuant to chapter 809. Within twenty-four
16 hours, the seizable property shall be delivered to the
17 appropriate city or county law enforcement agency of the
18 jurisdiction in which the licensed premises is located and
19 shall be disposed of as provided in chapter 809.

20 2. A liquor control licensee or wine or beer permittee or
21 an employee of the licensee or permittee is not subject to
22 criminal prosecution for, or to civil liability for damages
23 alleged to have resulted from, the retention and delivery of
24 an identification card which is taken pursuant to subsection
25 1.

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EXPLANATION

27 This bill provides that for the purpose of enforcing laws
28 relating to alcoholic beverages such as the offense of public
29 intoxication, the term "public place" also includes the
30 interior of a motor vehicle which is located on a public
31 street or highway or in a public parking lot.

32 The bill also provides that a liquor control licensee or
33 permittee or an employee of a licensee or permittee may retain
34 an identification card offered by a person who wishes to
35 purchase an alcoholic beverage if the licensee, permittee, or

1 employee believes the identification card to be falsified or
2 altered, or belongs to another person. The identification
3 card must be given to the appropriate law enforcement agencies
4 within twenty-four hours and disposed of a seizable property
5 pursuant to chapter 809. Civil and criminal immunity is
6 provided for the seizure.

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**HOUSE FILE 2146
FISCAL NOTE**

The estimate for House File 2146 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2146 provides that for the purpose of enforcing laws relating to alcoholic beverages, such as the offense of public intoxication, the term "public place" also includes the interior of a motor vehicle which is located on a public street or highway or in a public parking lot.

Assumptions:

According to the Iowa Uniform Crime Reports, 15,377 arrests for drunkenness occurred in 1990. Given this frequency, it is reasonable to assume that additional convictions for public intoxication would occur if the definition of "public place" were expanded as specified; however, the number of additional convictions cannot be determined.

Fiscal Impact:

Revenue to the General Fund would increase \$100 (the fine for public intoxication) for each additional conviction of public intoxication.

Correctional Impact:

The correctional impact cannot be determined, but is not expected to be significant.

Source:

Department of Corrections
Department of Human Rights (CJJP)
Judicial Department
Parole Board
Department of Public Safety

(LSB 3562hh, LDC)

FILED MARCH 3, 1994

BY DENNIS PROUTY, FISCAL DIRECTOR

(P. 776) 3-21-94 State Bond
(P. 814) 3-23-94 Senate - Amend
Do Pass w/s-5286

HOUSE FILE 2146
BY DAGGETT

(As Amended and Passed by the House March 17, 1994)

Passed House, ^(p. 1505) Date 4-13-94 Passed Senate, ^(p. 962) Date 3/31/94
Vote: Ayes 96 Nays 0 Vote: Ayes 47 Nays 3
Approved April 28, 1994 ~~Passed~~ 4-15-94
Vote 50-0 (P. 1271)

A BILL FOR

1 An Act relating to access to, and the possession of, alcoholic
2 beverages, and subjecting violators to existing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____
Deleted Language *

*1 Section 1. NEW SECTION. 123.47C SEIZURE OF FALSE OR
2 ALTERED IDENTIFICATION CARDS.

3 1. If a liquor control licensee or wine or beer permittee
4 or an employee of the licensee or permittee concludes that an
5 identification card offered by a person who wishes to purchase
6 an alcoholic beverage at the licensed premises, is altered or
7 falsified or belongs to another person, the licensee,
8 permittee, or employee may retain the identification card as
9 seizable property pursuant to chapter 809. Within twenty-four
10 hours, the seizable property shall be delivered to the
11 appropriate city or county law enforcement agency of the
12 jurisdiction in which the licensed premises is located and
13 shall be disposed of as provided in chapter 809.

14 2. A liquor control licensee or wine or beer permittee or
15 an employee of the licensee or permittee is not subject to
16 criminal prosecution for, or to civil liability for damages
17 alleged to have resulted from, the retention and delivery of
18 an identification card which is taken pursuant to subsection
19 1.

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HOUSE FILE 2146

S-5319

1 Amend the amendment, S-5286, to House File 2146, as
2 amended, passed, and reprinted by House, as follows:

3 1. Page 1, by striking line 5 and inserting the
4 following:

5 "Section 1. Section 123.47, Code 1993, is amended
6 to read as follows:

7 123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

8 A person shall not sell, give, or otherwise supply
9 alcoholic liquor, wine, or beer to any person knowing
10 or having reasonable cause to believe that person to
11 be under the age of eighteen, and a person or persons
12 under the age of eighteen shall not individually or
13 jointly have alcoholic liquor, wine, or beer in their
14 possession or control; except in the case of liquor,
15 wine, or beer given or dispensed to a person under the
16 age of eighteen within a private home and with the
17 knowledge, presence, and consent of the parent or
18 guardian for beverage or medicinal purposes or as
19 administered to the person by either a physician or
20 dentist for medicinal purposes and except to the
21 extent that a person under the age of eighteen may
22 handle alcoholic beverages, wine, and beer during the
23 regular course of the person's employment by a liquor
24 control licensee, or wine or beer permittee under this
25 chapter.

26 Sec. ____ . Section 123.47A, subsection 1, Code
27 1993, is amended to read as follows:

28 1. A person shall not sell, give, or otherwise
29 supply alcoholic liquor, wine, or beer to any person
30 knowing or having reasonable cause to believe that the
31 person is age eighteen, nineteen, or twenty. A person
32 age eighteen, nineteen, or twenty shall not purchase
33 or possess alcoholic liquor, wine, or beer. However,
34 a person age eighteen, nineteen, or twenty may possess
35 alcoholic liquor, wine, or beer given to the person
36 within a private home with the knowledge, presence,
37 and consent of the person's parent or guardian, and a
38 person age eighteen, nineteen, or twenty may handle
39 alcoholic liquor, wine, and beer during the course of
40 the person's employment by a liquor control licensee,
41 or wine or beer permittee. A person, other than a
42 licensee or permittee, who commits a first offense
43 under this section commits a scheduled violation of
44 section 805.8, subsection 10. A person, other than a
45 licensee or permittee, who commits a second or
46 subsequent violation of this section, commits a simple
47 misdemeanor. A licensee or permittee who violates
48 this section with respect to a person who is age
49 nineteen or twenty is guilty of a simple misdemeanor
50 punishable by a fine of not more than fifty dollars.

S-5319

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S-5319

Page 2

1 The penalty provided under this section against a
2 licensee or permittee who violates this section with
3 respect to a person who is age nineteen or twenty is
4 the only penalty which shall be imposed against a
5 licensee or permittee who violates this section. A
6 licensee or permittee who violates this section with
7 respect to a person who is age eighteen commits a
8 simple misdemeanor, and is subject to the criminal and
9 civil penalties provided pursuant to sections 123.49
10 and 123.50 with respect to selling, giving, or
11 otherwise supplying alcoholic beverages, liquor, wine,
12 or beer to persons under legal age.

13 Sec. ____ . NEW SECTION. 123.47C SEIZURE OF.
14 2. Page 1, by striking line 38 and inserting the
15 following: "taken pursuant to subsections 1 and 2.
16 This section shall not be construed to relieve a
17 licensee, permittee, or employee of the licensee or
18 permittee from civil liability for damages resulting
19 from the use of unreasonable force in obtaining the
20 altered or falsified motor vehicle license or
21 identification card or the motor vehicle license or
22 identification card believed to belong to another
23 person."

By JOE WELSH

S-5319 FILED MARCH 29, 1994

Adopted 3/31/94 (p 962)

HOUSE FILE 2146

S-5286

1 Amend House File 2146, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Section 1. NEW SECTION. 123.47C SEIZURE OF
6 FALSE OR ALTERED MOTOR VEHICLE LICENSE OR NONOPERATOR
7 IDENTIFICATION CARD.

8 1. If a liquor control licensee or wine or beer
9 permittee or an employee of the licensee or permittee
10 has a reasonable belief based on factual evidence that
11 a motor vehicle license as defined in section 321.1,
12 subsection 43, or nonoperator identification card
13 issued pursuant to section 321.190 offered by a person
14 who wishes to purchase an alcoholic beverage at the
15 licensed premises is altered or falsified or belongs
16 to another person, the licensee, permittee, or
17 employee may retain the motor vehicle license or
18 nonoperator identification card. Within twenty-four
19 hours, the card and a written report of the
20 circumstances shall be delivered to the department of
21 transportation which may investigate whether a
22 violation of section 321.190, 321.216, or 321.216B has
23 occurred. If no investigation is initiated or no
24 probable cause is established by the department, the
25 motor vehicle license or nonoperator identification
26 card shall be delivered to the person to whom it was
27 issued.

28 2. Upon taking possession of an identification
29 card as provided in subsection 1, a receipt for the
30 card with the date and hour of seizure noted shall be
31 provided to the person from whom the card was seized.

32 3. A liquor control licensee or wine or beer
33 permittee or an employee of the licensee or permittee
34 is not subject to criminal prosecution for, or to
35 civil liability for damages alleged to have resulted
36 from, the retention and delivery of a motor vehicle
37 license or a nonoperator identification card which is
38 taken pursuant to subsections 1 and 2."

By COMMITTEE ON STATE GOVERNMENT
MICHAEL GRONSTAL, Chairperson

S-5286 FILED MARCH 23, 1994

Adapted 3/31/94 (P. 962)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2146

S-5633

1 Amend the amendment, H-5929, to House File 2146, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 2, by striking lines 27 through 35 and
5 inserting the following: "hours, the card shall be
6 delivered to the appropriate city or county law
7 enforcement agency of the jurisdiction in which the
8 licensed premises is located. When the card is
9 delivered to the appropriate law enforcement agency,
10 the licensee shall file a written report of the
11 circumstances under which the card was retained. The
12 local law enforcement agency may investigate whether a
13 violation of section 321.190, 321.216, or 321.216B has
14 occurred. If an investigation is not initiated or a
15 probable cause is not established by the local law
16 enforcement agency, the motor vehicle license or
17 nonoperator identification card shall be delivered to
18 the person to whom it was issued. The local law
19 enforcement agency may forward the card with the
20 report to the department of transportation for
21 investigation, in which case, the department may
22 investigate whether a violation of section 321.190,
23 321.216, or 321.216B has occurred. The department of
24 transportation shall return the card to the person to
25 whom it was issued if an investigation is not
26 initiated or a probable cause is not established."

RECEIVED FROM THE HOUSE

S-5633 FILED APRIL 13, 1994

Senate concurred 4/15/94 (P. 137)

SENATE AMENDMENT TO HOUSE FILE 2146

H-5929

1 Amend House File 2146, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Section 1. Section 123.47, Code 1993, is amended
6 to read as follows:

7 123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

8 A person shall not sell, give, or otherwise supply
9 alcoholic liquor, wine, or beer to any person knowing
10 or having reasonable cause to believe that person to
11 be under the age of eighteen, and a person or persons
12 under the age of eighteen shall not individually or
13 jointly have alcoholic liquor, wine, or beer in their
14 possession or control; except in the case of liquor,
15 wine, or beer given or dispensed to a person under the
16 age of eighteen within a private home and with the
17 knowledge, presence, and consent of the parent or
18 guardian for beverage or medicinal purposes or as
19 administered to the person by either a physician or
20 dentist for medicinal purposes and except to the
21 extent that a person under the age of eighteen may
22 handle alcoholic beverages, wine, and beer during the
23 regular course of the person's employment by a liquor
24 control licensee, or wine or beer permittee under this
25 chapter.

26 Sec. 2. Section 123.47A, subsection 1, Code 1993,
27 is amended to read as follows:

28 1. A person shall not sell, give, or otherwise
29 supply alcoholic liquor, wine, or beer to any person
30 knowing or having reasonable cause to believe that the
31 person is age eighteen, nineteen, or twenty. A person
32 age eighteen, nineteen, or twenty shall not purchase
33 or possess alcoholic liquor, wine, or beer. However,
34 a person age eighteen, nineteen, or twenty may possess
35 alcoholic liquor, wine, or beer given to the person
36 within a private home with the knowledge, presence,
37 and consent of the person's parent or guardian, and a
38 person age eighteen, nineteen, or twenty may handle
39 alcoholic liquor, wine, and beer during the course of
40 the person's employment by a liquor control licensee,
41 or wine or beer permittee. A person, other than a
42 licensee or permittee, who commits a first offense
43 under this section commits a scheduled violation of
44 section 805.8, subsection 10. A person, other than a
45 licensee or permittee, who commits a second or
46 subsequent violation of this section, commits a simple
47 misdemeanor. A licensee or permittee who violates
48 this section with respect to a person who is age
49 nineteen or twenty is guilty of a simple misdemeanor
50 punishable by a fine of not more than fifty dollars.

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H-5929

Page 2

1 The penalty provided under this section against a
2 licensee or permittee who violates this section with
3 respect to a person who is age nineteen or twenty is
4 the only penalty which shall be imposed against a
5 licensee or permittee who violates this section. A
6 licensee or permittee who violates this section with
7 respect to a person who is age eighteen commits a
8 simple misdemeanor, and is subject to the criminal and
9 civil penalties provided pursuant to sections 123.49
10 and 123.50 with respect to selling, giving, or
11 otherwise supplying alcoholic beverages, liquor, wine,
12 or beer to persons under legal age.

13 Sec. 3. NEW SECTION. 123.47C SEIZURE OF FALSE OR
14 ALTERED MOTOR VEHICLE LICENSE OR NONOPERATOR
15 IDENTIFICATION CARD.

16 1. If a liquor control licensee or wine or beer
17 permittee or an employee of the licensee or permittee
18 has a reasonable belief based on factual evidence that
19 a motor vehicle license as defined in section 321.1,
20 subsection 43, or nonoperator identification card
21 issued pursuant to section 321.190 offered by a person
22 who wishes to purchase an alcoholic beverage at the
23 licensed premises is altered or falsified or belongs
24 to another person, the licensee, permittee, or
25 employee may retain the motor vehicle license or
26 nonoperator identification card. Within twenty-four
27 hours, the card and a written report of the
28 circumstances shall be delivered to the department of
29 transportation which may investigate whether a
30 violation of section 321.190, 321.216, or 321.216B has
31 occurred. If no investigation is initiated or no
32 probable cause is established by the department, the
33 motor vehicle license or nonoperator identification
34 card shall be delivered to the person to whom it was
35 issued.

36 2. Upon taking possession of an identification
37 card as provided in subsection 1, a receipt for the
38 card with the date and hour of seizure noted shall be
39 provided to the person from whom the card was seized.

40 3. A liquor control licensee or wine or beer
41 permittee or an employee of the licensee or permittee
42 is not subject to criminal prosecution for, or to
43 civil liability for damages alleged to have resulted
44 from, the retention and delivery of a motor vehicle
45 license or a nonoperator identification card which is
46 taken pursuant to subsections 1 and 2. This section
47 shall not be construed to relieve a licensee,
48 permittee, or employee of the licensee or permittee
49 from civil liability for damages resulting from the
50 use of unreasonable force in obtaining the altered or

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H-5929

Page 3

- 1 falsified motor vehicle license or identification card
- 2 or the motor vehicle license or identification card
- 3 believed to belong to another person."

RECEIVED FROM THE SENATE

H-5929 FILED APRIL 4, 1994

House Concurred 4/13/94 (P. 1505)

HOUSE FILE 2146

H-6135

- 1 Amend the amendment, H-5929, to House File 2146, as
- 2 amended, passed, and reprinted by the House, as
- 3 follows:

- 4 1. Page 2, by striking lines 27 through 35 and
- 5 inserting the following: "hours, the card shall be
- 6 delivered to the appropriate city or county law
- 7 enforcement agency of the jurisdiction in which the
- 8 licensed premises is located. When the card is
- 9 delivered to the appropriate law enforcement agency,
- 10 the licensee shall file a written report of the
- 11 circumstances under which the card was retained. The
- 12 local law enforcement agency may investigate whether a
- 13 violation of section 321.190, 321.216, or 321.216B has
- 14 occurred. If an investigation is not initiated or a
- 15 probable cause is not established by the local law
- 16 enforcement agency, the motor vehicle license or
- 17 nonoperator identification card shall be delivered to
- 18 the person to whom it was issued. The local law
- 19 enforcement agency may forward the card with the
- 20 report to the department of transportation for
- 21 investigation, in which case, the department may
- 22 investigate whether a violation of section 321.190,
- 23 321.216, or 321.216B has occurred. The department of
- 24 transportation shall return the card to the person to
- 25 whom it was issued if an investigation is not
- 26 initiated or a probable cause is not established."

By ERTL of Dubuque

H-6135 FILED APRIL 12, 1994

adopted 4/13/94 (P. 1505)

HOUSE FILE 2146

AN ACT

RELATING TO ACCESS TO, AND THE POSSESSION OF, ALCOHOLIC BEVERAGES, AND SUBJECTING VIOLATORS TO EXISTING PENALTIES.

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

Section 1. Section 123.47, Code 1993, is amended to read as follows:

123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under the age of eighteen, and a person or persons under the age of eighteen shall not individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under the age of eighteen within a private home and with the knowledge, presence, and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under the age of eighteen may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

Sec. 2. Section 123.47A, subsection 1, Code 1993, is amended to read as follows:

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that the person is age eighteen, nineteen, or twenty. A person age eighteen,

nineteen, or twenty shall not purchase or possess alcoholic liquor, wine, or beer. However, a person age eighteen, nineteen, or twenty may possess alcoholic liquor, wine, or beer given to the person within a private home with the knowledge, presence, and consent of the person's parent or guardian, and a person age eighteen, nineteen, or twenty may handle alcoholic liquor, wine, and beer during the course of the person's employment by a liquor control licensee, or wine or beer permittee. A person, other than a licensee or permittee, who commits a first offense under this section commits a scheduled violation of section 805.8, subsection 10. A person, other than a licensee or permittee, who commits a second or subsequent violation of this section, commits a simple misdemeanor. A licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is guilty of a simple misdemeanor punishable by a fine of not more than fifty dollars. The penalty provided under this section against a licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is the only penalty which shall be imposed against a licensee or permittee who violates this section. A licensee or permittee who violates this section with respect to a person who is age eighteen commits a simple misdemeanor, and is subject to the criminal and civil penalties provided pursuant to sections 123.49 and 123.50 with respect to selling, giving, or otherwise supplying alcoholic beverages, liquor, wine, or beer to persons under legal age.

Sec. 3. NEW SECTION. 123.47C SEIZURE OF FALSE OR ALTERED MOTOR VEHICLE LICENSE OR NONOPERATOR IDENTIFICATION CARD.

1. If a liquor control licensee or wine or beer permittee or an employee of the licensee or permittee has a reasonable belief based on factual evidence that a motor vehicle license as defined in section 321.1, subsection 43, or nonoperator identification card issued pursuant to section 321.190 offered by a person who wishes to purchase an alcoholic beverage at

the licensed premises is altered or falsified or belongs to another person, the licensee, permittee, or employee may retain the motor vehicle license or nonoperator identification card. Within twenty-four hours, the card shall be delivered to the appropriate city or county law enforcement agency of the jurisdiction in which the licensed premises is located. When the card is delivered to the appropriate law enforcement agency, the licensee shall file a written report of the circumstances under which the card was retained. The local law enforcement agency may investigate whether a violation of section 321.190, 321.216, or 321.216B has occurred. If an investigation is not initiated or a probable cause is not established by the local law enforcement agency, the motor vehicle license or nonoperator identification card shall be delivered to the person to whom it was issued. The local law enforcement agency may forward the card with the report to the department of transportation for investigation, in which case, the department may investigate whether a violation of section 321.190, 321.216, or 321.216B has occurred. The department of transportation shall return the card to the person to whom it was issued if an investigation is not initiated or a probable cause is not established.

2. Upon taking possession of an identification card as provided in subsection 1, a receipt for the card with the date and hour of seizure noted shall be provided to the person from whom the card was seized.

3. A liquor control licensee or wine or beer permittee or an employee of the licensee or permittee is not subject to criminal prosecution for, or to civil liability for damages alleged to have resulted from, the retention and delivery of a motor vehicle license or a nonoperator identification card which is taken pursuant to subsections 1 and 2. This section shall not be construed to relieve a licensee, permittee, or employee of the licensee or permittee from civil liability for damages resulting from the use of unreasonable force in

obtaining the altered or falsified motor vehicle license or identification card or the motor vehicle license or identification card believed to belong to another person.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2146, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved *April 25*, 1994

TERRY E. BRANSTAD
Governor