

FEB 01 1995

JUDICIARY

HOUSE FILE 114
BY GARMAN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act to remove the six-year period concerning prior offenses
2 for purposes of determining whether enhanced penalties or
3 license revocations apply to an operating while intoxicated
4 offense.

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

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HF 114

1 Section 1. Section 321.12, unnumbered paragraph 2, Code
2 1995, is amended by striking the paragraph.

3 Sec. 2. Section 321J.2, subsection 3, Code 1995, is
4 amended to read as follows:

5 ~~3. No conviction for, deferred judgment for, or plea of~~
6 ~~guilty to, a violation of this section which occurred more~~
7 ~~than six years prior to the date of the violation charged~~
8 ~~shall be considered in determining that the violation charged~~
9 ~~is a second, third, or subsequent offense.~~ For the purpose of
10 determining if a violation charged is a second, third, or
11 subsequent offense, deferred judgments pursuant to section
12 907.3 for violations of this section and convictions or the
13 equivalent of deferred judgments for violations in any other
14 states under statutes substantially corresponding to this
15 section shall be counted as previous offenses. The courts
16 shall judicially notice the statutes of other states which
17 define offenses substantially equivalent to the one defined in
18 this section and can therefore be considered corresponding
19 statutes. Each previous violation on which conviction or
20 deferral of judgment was entered prior to the date of the
21 violation charged shall be considered and counted as a
22 separate previous offense.

23 Sec. 3. Section 321J.4, subsection 1, Code 1995, is
24 amended to read as follows:

25 1. If a defendant is convicted of a violation of section
26 321J.2 and the defendant's motor vehicle license or
27 nonresident operating privilege has not been revoked under
28 section 321J.9 or 321J.12 for the occurrence from which the
29 arrest arose, the department shall revoke the defendant's
30 motor vehicle license or nonresident operating privilege for
31 one hundred eighty days if the defendant has had no previous
32 conviction under section 321J.2 or revocation under section
33 321J.9 or 321J.12 ~~within the previous six years~~ and for one
34 year if the defendant has had one or more previous convictions
35 or revocations under those sections ~~within the previous six~~

1 years.

2 Sec. 4. Section 321J.4A, subsection 2, Code 1995, is
3 amended by striking the subsection.

4 Sec. 5. Section 321J.9, Code 1995, is amended to read as
5 follows:

6 321J.9 REFUSAL TO SUBMIT -- REVOCATION.

7 If a person refuses to submit to the chemical testing, a
8 test shall not be given, but the department, upon the receipt
9 of the peace officer's certification, subject to penalty for
10 perjury, that the officer had reasonable grounds to believe
11 the person to have been operating a motor vehicle in violation
12 of section 321J.2, that specified conditions existed for
13 chemical testing pursuant to section 321J.6, and that the
14 person refused to submit to the chemical testing, shall revoke
15 the person's motor vehicle license and any nonresident
16 operating privilege for a period of two hundred forty days if
17 the person has no previous revocation ~~within-the-previous-six~~
18 years under this chapter; and five hundred forty days if the
19 person has one or more previous revocations ~~within-the~~
20 ~~previous-six-years~~ under this chapter; or if the person is a
21 resident without a license or permit to operate a motor
22 vehicle in this state, the department shall deny to the person
23 the issuance of a license or permit for the same period a
24 license or permit would be revoked, subject to review as
25 provided in this chapter. The effective date of revocation
26 shall be twenty days after the department has mailed notice of
27 revocation to the person by certified mail or, on behalf of
28 the department, a peace officer offering or directing the
29 administration of a chemical test may serve immediate notice
30 of intention to revoke and of revocation on a person who
31 refuses to permit chemical testing. If the peace officer
32 serves that immediate notice, the peace officer shall take the
33 Iowa license or permit of the driver, if any, and issue a
34 temporary license effective for only twenty days. The peace
35 officer shall immediately send the person's license to the

1 department along with the officer's certificate indicating the
2 person's refusal to submit to chemical testing.

3 Sec. 6. Section 321J.12, unnumbered paragraph 1, Code
4 1995, is amended to read as follows:

5 Upon certification, subject to penalty for perjury, by the
6 peace officer that there existed reasonable grounds to believe
7 that the person had been operating a motor vehicle in
8 violation of section 321J.2, that there existed one or more of
9 the necessary conditions for chemical testing described in
10 section 321J.6, subsection 1, and that the person submitted to
11 chemical testing and the test results indicated an alcohol
12 concentration as defined in section 321J.1 of .10 or more, the
13 department shall revoke the person's motor vehicle license or
14 nonresident operating privilege for a period of one hundred
15 eighty days if the person has had no previous revocation
16 ~~within-the-previous-six-years~~ under this chapter, and one year
17 if the person has had one or more previous revocations within
18 ~~the-previous-six-years~~ under this chapter.

19 Sec. 7. Section 321J.20, subsection 1, unnumbered
20 paragraph 1, Code 1995, is amended to read as follows:

21 The department may, on application, issue a temporary
22 restricted license to a person whose motor vehicle license is
23 revoked under this chapter allowing the person to drive to and
24 from the person's home and specified places at specified times
25 which can be verified by the department and which are required
26 by the person's full-time or part-time employment, continuing
27 health care or the continuing health care of another who is
28 dependent upon the person, continuing education while enrolled
29 in an educational institution on a part-time or full-time
30 basis and while pursuing a course of study leading to a
31 diploma, degree, or other certification of successful
32 educational completion, substance abuse treatment, and court-
33 ordered community service responsibilities if the person's
34 motor vehicle license has not been revoked under section
35 321J.4, 321J.9, or 321J.12 ~~within-the-previous-six-years~~ and

1 if any of the following apply:

2 Sec. 8. Section 907.3, subsection 1, paragraph g, Code
3 1995, is amended to read as follows:

4 g. The offense is a violation of section 321J.2 and
5 ~~within-the-previous-six-years~~, the person has been convicted
6 of a violation of that section or the person's driver's
7 license has been revoked pursuant to section 321J.4, 321J.9,
8 or 321J.12.

9 Sec. 9. Section 25B.2, subsection 3, Code 1995, shall not
10 apply to this Act.

11 EXPLANATION

12 This bill deletes language, from the chapter governing the
13 offense of operating while intoxicated, that currently
14 prevents consideration of offenses committed more than six
15 years from a current offense for purposes of determining
16 whether enhanced criminal penalties or license revocation
17 periods should apply. The effect of the deletion is to
18 include all arrests and convictions, regardless of how old
19 they are, for purposes of determining whether enhanced
20 criminal penalties or license revocations apply.

21 This bill may include a state mandate as defined in section
22 25B.3. However, this bill makes inapplicable the statutory
23 provision which would permit a political subdivision to not
24 comply with a state mandate if funding for the cost of the
25 state mandate is not provided or specified.

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