

Substituted for SF 2180
3-28-96
(P.1107)

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3/11/96 Do Pass

FEB 26 1996

TRANSPORTATION

HOUSE FILE
BY CATALDO

2331

Passed House, ^(P.808) Date 3/19/96 Passed Senate, ^(P.1107) Date 3-28-96
Vote: Ayes 94 Nays 0 Vote: Ayes 34 Nays 13
~~Approved~~ 5/30/96
Passed 4-3-96
vote 100-0

A BILL FOR

1 An Act expanding the factors that a court and the state
2 department of transportation may consider in ordering the
3 issuance of a temporary restricted license, and providing an
4 effective date.

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

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HF 2331

1 Section 1. Section 321J.4, subsection 8, Code Supplement
2 1995, is amended to read as follows:

3 8. a. A person whose motor vehicle license has either
4 been revoked under this chapter, or revoked or suspended under
5 chapter 321 solely for violations of this chapter, or who has
6 been determined to be a habitual offender under chapter 321
7 based solely on violations of this chapter, and who is not
8 eligible for a temporary restricted license under this chapter
9 may petition the court upon the expiration of the minimum
10 period of ineligibility for a temporary restricted license
11 provided for under this section or section 321J.9, 321J.12, or
12 321J.20 for an order to the department ~~to-require~~ requiring
13 the department to issue a temporary restricted license to the
14 person, notwithstanding section 321.560. Upon the filing of a
15 petition for a temporary restricted license under this
16 section, the clerk of the district court in the county where
17 the violation that resulted in the revocation occurred shall
18 send notice of the petition to the department and the
19 prosecuting attorney. The department and the prosecuting
20 attorney shall each be given an opportunity to respond to and
21 request a hearing on the petition.

22 b. The court shall determine if the temporary restricted
23 license is necessary for the person to maintain the person's
24 present full-time or part-time employment, including
25 consideration of child care necessary to maintain the
26 employment; continuing health care or the continuing health
27 care of another who is dependent upon the person; continuing
28 education while enrolled in an educational institution on a
29 part-time or full-time basis and while pursuing a course of
30 study leading to a diploma, degree, or other certification of
31 successful educational completion; substance abuse treatment;
32 or court-ordered community service responsibilities. However,
33 a temporary restricted license shall not be ordered or issued
34 for violations of section 321J.2A or to persons under the age
35 of twenty-one who commit violations under section 321J.2.

1 c. If the court determines that the temporary restricted
2 license is necessary ~~for-the-person-to-maintain-the-person's~~
3 ~~present-employment~~ based upon consideration of any of the
4 factors listed in paragraph "b", and that the minimum period
5 of ineligibility for receipt of a temporary license has
6 expired, the court shall order the department to issue to the
7 person a temporary restricted license conditioned upon the
8 person's certification to the court of the installation of
9 approved ignition interlock devices in all motor vehicles that
10 it is necessary for the person to operate ~~to-maintain-the~~
11 ~~person's-present-employment.~~ The court shall specify in its
12 order the limited purposes and specific places for which the
13 temporary restricted license shall be used by the person
14 petitioning the court. Notwithstanding any limitations
15 imposed on the department by this chapter or chapter 321, the
16 department shall issue the license. The temporary restricted
17 license issued by the department pursuant to such an order
18 shall specify the court-ordered place and purpose
19 restrictions.

20 d. Section 321.561 does not apply to a person operating a
21 motor vehicle in the manner permitted under this subsection.

22 e. If the person operates a motor vehicle which does not
23 have an approved ignition interlock device or if the person
24 tampers with or circumvents an ignition interlock device, in
25 addition to other penalties provided, the person's temporary
26 restricted license shall be revoked.

27 f. A person holding a temporary restricted license issued
28 under this subsection shall not operate a commercial motor
29 vehicle, as defined in section 321.1, on a highway if a
30 commercial driver's license is required for the person to
31 operate the commercial motor vehicle.

32 Sec. 2. Section 321J.20, subsection 1, Code Supplement
33 1995, is amended to read as follows:

34 1. The department may, on application, issue a temporary
35 restricted license to a person whose motor vehicle license is

1 revoked under this chapter allowing the person to drive to and
2 from the person's home and specified places at specified times
3 which can be verified by the department and which are required
4 by the person's full-time or part-time employment, including
5 consideration of child care necessary to maintain the
6 employment; continuing health care or the continuing health
7 care of another who is dependent upon the person, continuing
8 education while enrolled in an educational institution on a
9 part-time or full-time basis and while pursuing a course of
10 study leading to a diploma, degree, or other certification of
11 successful educational completion; substance abuse
12 treatment; and court-ordered community service
13 responsibilities if the person's motor vehicle license has not
14 been revoked under section 321J.4, 321J.9, or 321J.12 within
15 the previous six years and if any of the following apply:
16 a. The person's motor vehicle license is revoked under
17 section 321J.4, subsection 1, 2, 4, or 6, and the minimum
18 period of ineligibility for issuance of a temporary restricted
19 license has expired.
20 b. The person's motor vehicle license is revoked under
21 section 321J.9 and the person has entered a plea of guilty on
22 a charge of a violation of section 321J.2 which arose from the
23 same set of circumstances which resulted in the person's motor
24 vehicle license revocation under section 321J.9 and the guilty
25 plea is not withdrawn at the time of or after application for
26 the temporary restricted license, and the minimum period of
27 ineligibility for issuance of a temporary restricted license
28 has expired.
29 c. The person's motor vehicle license is revoked under
30 section 321J.12, and the minimum period of ineligibility for
31 issuance of a temporary restricted license has expired.
32 However, a temporary restricted license may be issued if
33 the person's motor vehicle license is revoked under section
34 321J.9, and the revocation is a second revocation under this
35 chapter, and the first three hundred and sixty-five days of

1 the revocation have expired.

2 Sec. 3. EFFECTIVE DATE. This Act, being deemed of
3 immediate importance, takes effect upon enactment.

4 EXPLANATION

5 Section 1 of this bill amends Code section 321J.4,
6 subsection 8, which currently permits a court to order the
7 issuance of a temporary restricted license for work purposes,
8 for a person who has waited the statutory minimum period and
9 who is not otherwise eligible for a temporary restricted
10 license under the provisions of section 321J.20. This bill
11 allows the court to consider specified circumstances
12 necessitating limited travel, in addition to employment, in
13 ordering the department to issue such a license. These
14 additional circumstances are identical to those that the
15 department may consider in issuing a temporary restricted
16 license under section 321J.20. The bill also requires that
17 the limited places and purposes for the license be specified
18 in the court order and as part of the temporary restricted
19 license.

20 Section 2 of the bill expressly adds to section 321J.20
21 that the department can consider child care needs relating to
22 employment in issuing a temporary restricted license.

23 Section 3 of the bill makes the bill effective upon
24 enactment.

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HOUSE FILE 2331

S-5571

- 1 Amend House File 2331 as passed by the House as
2 follows:
3 1. Page 1, lines 24 through 26, by striking the
4 words "employment, including consideration of child
5 care necessary to maintain the employment;" and
6 inserting the following: "employment; necessary child
7 care;".
8 2. Page 2, lines 14 through 16, by striking the
9 words "Notwithstanding any limitations imposed on the
10 department by this chapter or chapter 321, the
11 department shall issue the license."
12 3. Page 3, lines 4 through 6, by striking the
13 words "employment, including consideration of child
14 care necessary to maintain the employment;" and
15 inserting the following "employment; necessary child
16 care;".

By TONY BISIGNANO

S-5571 FILED MARCH 27, 1996

Adopted 3-28-96
(P.1107)

SENATE AMENDMENT TO HOUSE FILE 2331

H-5720

- 1 Amend House File 2331 as passed by the House as
2 follows:
3 1. Page 1, lines 24 through 26, by striking the
4 words "employment, including consideration of child
5 care necessary to maintain the employment;" and
6 inserting the following: "employment; necessary child
7 care;".
8 2. Page 2, lines 14 through 16, by striking the
9 words "Notwithstanding any limitations imposed on the
10 department by this chapter or chapter 321, the
11 department shall issue the license."
12 3. Page 3, lines 4 through 6, by striking the
13 words "employment, including consideration of child
14 care necessary to maintain the employment;" and
15 inserting the following "employment; necessary child
16 care;".

RECEIVED FROM THE SENATE

H-5720 FILED MARCH 28, 1996

*House Concurred**4/3/96**(P. 1343)*



OFFICE OF THE GOVERNOR

STATE CAPITOL

DES MOINES, IOWA 50319

515 281-5211

TERRY E. BRANSTAD
GOVERNOR

May 30, 1996

RECEIVED

MAY 31 1996

LEGISLATIVE SERVICE
BUREAU

The Honorable Paul Pate
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

House File 2331, an act expanding the factors that a court and the state department of transportation may consider in ordering the issuance of a temporary restricted license, and providing an effective date, is hereby disapproved and transmitted to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

House File 2331 grants new discretion to judges to give temporary restricted drivers licenses to the most serious offenders of our drunk driving laws. Currently persons who are convicted of drunk driving three or more times, or who kill or injure someone while driving drunk are subject to a mandatory revocation of their licenses for a specified period of years, e.g. six years for a third time offender. While the law generally prohibits these persons from driving during their revocation period, they may go back to court after the period of "hard" revocation ends, and request a temporary restricted license. Current law limits use of a temporary restricted license by these offenders to employment. This bill expands the purposes for which a temporary restricted license could be issued to them, thereby significantly increasing their opportunities to drive.

I certainly appreciate the inconvenience caused to someone who can not drive themselves to and from places where they need to be for a host of good reasons. However, we must not forget that these are the individuals whose driving privileges have been revoked because they have habitually driven drunk or, as a result of their decision to drive drunk, have caused serious injury or death to another.

The Honorable Paul Pate
May 30, 1996
Page 2

These are the people who just don't get it. They haven't yet learned that you don't drink and drive.

The seriousness of their offenses and their absolute disregard for the safety of others requires a strict response, which current law provides. These are the people who create the greatest hazard on our highways. They are responsible for the deaths and injuries of more than 3000 people on Iowa roads every year. They do not deserve the leniency this legislation would provide. The current restriction, limiting their use of a temporary restricted license for employment purposes only, is appropriate. The safety of Iowans should not be placed in jeopardy by being too lenient with habitual drunk drivers.

For the above reasons, I hereby respectfully disapprove House File 2331.

Sincerely,



Terry E. Branstad
Governor

TEB/ps

cc Secretary of the Senate
Chief Clerk of the House

VETOED

HOUSE FILE 2331

AN ACT

EXPANDING THE FACTORS THAT A COURT AND THE STATE DEPARTMENT OF TRANSPORTATION MAY CONSIDER IN ORDERING THE ISSUANCE OF A TEMPORARY RESTRICTED LICENSE, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 321J.4, subsection 8, Code Supplement 1995, is amended to read as follows:

8. a. A person whose motor vehicle license has either been revoked under this chapter, or revoked or suspended under chapter 321 solely for violations of this chapter, or who has been determined to be a habitual offender under chapter 321 based solely on violations of this chapter, and who is not eligible for a temporary restricted license under this chapter may petition the court upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under this section or section 321J.9, 321J.12, or 321J.20 for an order to the department ~~to-require~~ requiring the department to issue a temporary restricted license to the person, notwithstanding section 321.560. Upon the filing of a petition for a temporary restricted license under this section, the clerk of the district court in the county where the violation that resulted in the revocation occurred shall send notice of the petition to the department and the prosecuting attorney. The department and the prosecuting attorney shall each be given an opportunity to respond to and request a hearing on the petition.

b. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present full-time or part-time employment; necessary child care; continuing health care or the continuing health care of

another who is dependent upon the person; continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion; substance abuse treatment; or court-ordered community service responsibilities. However, a temporary restricted license shall not be ordered or issued for violations of section 321J.2A or to persons under the age of twenty-one who commit violations under section 321J.2.

c. If the court determines that the temporary restricted license is necessary ~~for-the-person-to-maintain-the-person's present-employment based upon consideration of any of the factors listed in paragraph "b",~~ and that the minimum period of ineligibility for receipt of a temporary license has expired, the court shall order the department to issue to the person a temporary restricted license conditioned upon the person's certification to the court of the installation of approved ignition interlock devices in all motor vehicles that it is necessary for the person to operate ~~to-maintain-the person's-present-employment.~~ The court shall specify in its order the limited purposes and specific places for which the temporary restricted license shall be used by the person petitioning the court. The temporary restricted license issued by the department pursuant to such an order shall specify the court-ordered place and purpose restrictions.

d. Section 321.561 does not apply to a person operating a motor vehicle in the manner permitted under this subsection.

e. If the person operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked.

f. A person holding a temporary restricted license issued under this subsection shall not operate a commercial motor vehicle, as defined in section 321.1, on a highway if a

HF 2331

commercial driver's license is required for the person to operate the commercial motor vehicle.

Sec. 2. Section 321J.20, subsection 1, Code Supplement 1995, is amended to read as follows:

1. The department may, on application, issue a temporary restricted license to a person whose motor vehicle license is revoked under this chapter allowing the person to drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by the person's full-time or part-time employment; necessary child care; continuing health care or the continuing health care of another who is dependent upon the person, continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion; substance abuse treatment; and court-ordered community service responsibilities if the person's motor vehicle license has not been revoked under section 321J.4, 321J.9, or 321J.12 within the previous six years and if any of the following apply:

a. The person's motor vehicle license is revoked under section 321J.4, subsection 1, 2, 4, or 6, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

b. The person's motor vehicle license is revoked under section 321J.9 and the person has entered a plea of guilty on a charge of a violation of section 321J.2 which arose from the same set of circumstances which resulted in the person's motor vehicle license revocation under section 321J.9 and the guilty plea is not withdrawn at the time of or after application for the temporary restricted license, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

c. The person's motor vehicle license is revoked under section 321J.12, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

However, a temporary restricted license may be issued if the person's motor vehicle license is revoked under section 321J.9, and the revocation is a second revocation under this chapter, and the first three hundred and sixty-five days of the revocation have expired.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

RON J. CORBETT
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 2331, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Vetoed
~~Approved~~ 5/30, 1996

TERRY E. BRANSTAD
Governor