

3/2/96 judiciary

MAR 6 1996

Place On Calendar

HOUSE FILE 2469  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 658)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the offense of driving while a license is  
2 denied, revoked, cancelled, or suspended, and providing a  
3 penalty.

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

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HF 2469

1 Section 1. Section 321.218, subsection 1, Code Supplement  
2 1995, is amended to read as follows:

3 1. A person whose motor vehicle license or operating  
4 privilege has been denied, canceled, suspended, or revoked as  
5 provided in this chapter, and who operates a motor vehicle  
6 upon the highways of this state while the license or privilege  
7 is denied, canceled, suspended, or revoked, commits a **serious**  
8 misdemeanor violation of this section, and notwithstanding  
9 section 903.1, shall be punished as follows:

10 a. For a first offense under this section, the violation  
11 shall be a simple misdemeanor, and the minimum penalty shall  
12 be two days in jail or a fine of one hundred dollars.

13 b. For a second offense under this section, the violation  
14 shall be a serious misdemeanor, and the minimum penalty shall  
15 be seven days in jail or a fine of five hundred dollars.

16 c. For a third or subsequent offense under this section,  
17 the violation shall be a serious misdemeanor, and the minimum  
18 penalty shall be thirty days in jail or a fine of seven  
19 hundred fifty dollars.

20 Sec. 2. NEW SECTION. 321.218A DRIVING UNDER SUSPENSION  
21 -- IMPOUNDMENT OF VEHICLE.

22 1. a. If a person operates a motor vehicle upon the  
23 highways of this state while the person's license or operating  
24 privilege has been suspended under this chapter, and the  
25 person has previously been convicted of operating a vehicle  
26 while the person's license or operating privilege was  
27 suspended, in addition to any other penalties that may be  
28 imposed, the motor vehicle the person is driving shall be  
29 immediately impounded. If ordered by the court after a  
30 hearing under this section, the impounding authority shall  
31 seize the motor vehicle's license plates and registration, and  
32 shall send or deliver the plates and registration to the  
33 department.

34 b. The impounding authority shall immediately determine  
35 the ownership of the motor vehicle, and if the owner of the

1 motor vehicle is a person other than the person who was  
2 operating the motor vehicle or is a rental or leasing company,  
3 the impounding authority shall immediately notify such person  
4 or company that the vehicle has been impounded, and is  
5 available for immediate return to the owner upon proof of  
6 personal identity and proof of title to the vehicle, without  
7 payment of any fees or costs associated with the impoundment.

8 c. The department shall destroy license plates received  
9 under this section and shall not issue new license plates for  
10 the vehicle until the period of suspension has expired, and  
11 the fee and costs assessed under this section have been paid.  
12 The fee for issuance of new license plates and certificates of  
13 registration shall be the same as for the replacement of lost,  
14 mutilated, or destroyed license plates and certificates of  
15 registration.

16 2. If the person who is operating the motor vehicle that  
17 is impounded is the owner of the motor vehicle and is  
18 convicted of a second or subsequent offense of operating the  
19 vehicle while the person's license or operating privilege is  
20 suspended, the court shall order that the person shall not  
21 regain possession of the motor vehicle until all of the  
22 following have occurred:

23 a. The period of suspension, including any additional  
24 suspension for driving the motor vehicle in question, has  
25 ended.

26 b. The person has obtained and presents to the court a  
27 valid driver's license.

28 c. The person has registered the vehicle and obtained new  
29 license plates for the vehicle.

30 d. The person has obtained and presents proof to the court  
31 of insurance coverage, in the following minimum amounts:

32 (1) Twenty thousand dollars of coverage for bodily injury  
33 to or death of one person in any one accident.

34 (2) Forty thousand dollars of coverage for bodily injury  
35 to or death of two or more persons in any one accident.

1 (3) Fifteen thousand dollars of coverage because of injury  
2 to or destruction of property in any one accident.

3 3. a. For other owners of seized vehicles, a hearing  
4 regarding the prospective or continued impoundment of the  
5 vehicle shall be held not less than five nor more than thirty  
6 days after the initial seizure, and shall be tried to the  
7 court. All claims to the motor vehicle shall be heard in one  
8 proceeding, unless it is shown that the proceeding would  
9 result in prejudice to one or more parties.

10 b. If the total value of the motor vehicle sought to be  
11 returned is less than ten thousand dollars, the proceeding may  
12 be conducted by a magistrate, notwithstanding section  
13 602.6405, or a district associate judge. Appeals from  
14 judgment shall be made within thirty days after the entry of a  
15 judgment order.

16 c. Impoundment shall not be ordered with respect to the  
17 particular motor vehicle, if the owner or owner's designee can  
18 prove to the satisfaction of the court that the owner did not  
19 know or should not have known that the vehicle was to be used  
20 in the commission of the offense of operating a motor vehicle  
21 while the person's driver's license was suspended, or if the  
22 rental or leasing company did not know, should not have known,  
23 and did not consent to the operation of the motor vehicle used  
24 in the commission of the offense of operating a motor vehicle  
25 while the person's driver's license was suspended.

26 d. If the court orders impoundment of the motor vehicle  
27 after a hearing under this subsection, the period of  
28 impoundment shall be for the duration of the period of  
29 suspension of the operator of the motor vehicle. The court  
30 shall also order the impounding authority to seize the motor  
31 vehicle's license plates and registration to the department,  
32 for processing in accordance with subsection 1, paragraph "c".

33 4. Unless otherwise ordered by the court, a person whose  
34 motor vehicle is impounded under this section shall not be  
35 permitted to register a motor vehicle until all of the

1 following have occurred:

2 a. Payment of all costs associated with the impoundment of  
3 the motor vehicle.

4 b. Payment to the state of a civil penalty of one hundred  
5 dollars.

6 c. The period of suspension has ended.

7 5. The impoundment of a motor vehicle under this section  
8 shall not constitute the loss of use of a motor vehicle for  
9 purposes of any contract of insurance.

10

EXPLANATION

11 This bill changes the penalty for the offense of driving  
12 while a license or operating privilege is denied, revoked,  
13 cancelled, or suspended.

14 The current penalty classification is a serious  
15 misdemeanor, which permits a court to impose a fine of \$250 to  
16 \$1,500, and a jail term of up to one year. The bill changes  
17 the classification to a simple misdemeanor for a first  
18 offense, and carries a minimum penalty of a fine of \$100 or  
19 two days of jail time. A second offense would be classified  
20 as a serious misdemeanor, punishable by seven days in jail or  
21 a fine of \$500. A third or subsequent offense would be a  
22 serious misdemeanor, punishable by 30 days in jail or a fine  
23 of \$750.

24 A new section adds an additional penalty of vehicle  
25 impoundment for persons arrested for a second or subsequent  
26 offense of driving while a license is suspended. A court  
27 hearing on the impoundment issue is provided, both for owners  
28 of vehicles who are arrested for offense of driving while a  
29 license is suspended, and for the other vehicle owners. A  
30 person whose vehicle is impounded is not permitted to register  
31 another vehicle during the period of impoundment, and must pay  
32 all costs of impoundment and a \$100 civil penalty, as well as  
33 presenting proof of minimum amounts of insurance coverage  
34 prior to regaining the vehicle at the end of the period of  
35 suspension.

**HOUSE FILE 2469  
FISCAL NOTE**

The estimate for House File 2469 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 2469 changes the penalty for the offense of driving while a license or operating privilege is denied, revoked, cancelled, or suspended. The Bill changes the classification for a first time offense from a serious misdemeanor to a simple misdemeanor. A second or subsequent offense would be classified as a serious misdemeanor. The Bill adds an additional penalty of vehicle impoundment for persons arrested for a second or subsequent offense of driving while a license is suspended. A court hearing on the impoundment issue is provided, both for owners of vehicles who are arrested for offense of driving while a license is suspended, and for the other vehicle owners.

**ASSUMPTIONS**

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other correction's policies and practices will not change over the projection period.
3. There will be a lag effect of six months from the law's effective date to the date of first entry of affected offenders into the correctional system.
4. An estimated 10,000 convictions per year would be affected by the provisions of House File 2469.
5. The average daily cost for an inmate to be on probation/parole in Community-Based Corrections is estimated to be \$1.58. The average daily cost for a person to be in jail is estimated to be \$50.
6. For a misdemeanor conviction, the average length of stay on probation/parole is 21 months and in jail is 16 days.

**CORRECTIONAL IMPACT**

A total of 10,000 convictions would be classified as simple misdemeanors rather than serious misdemeanors under the provisions of House File 2469 resulting in the following impact on the correctional system:

	<u>Community-Based Corrections</u>		
	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 2001</u>
<u>Probation/Parole</u> Admissions	-1,145	-2,290	-2,290
<u>Jails</u> Admissions	-875	-1,750	-1,750

FISCAL IMPACT

The Fiscal impact of House File 2469 to the Department of Corrections is provided below:

	(dollars in thousands)		
	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 2001</u>
<u>Community-Based Corrections</u>			
Probation/Parole	\$ -300	\$ -990	\$ -2,311
Jails	-700	-1,400	-1,400
Total	<u>\$ -1,000</u>	<u>\$ -2,390</u>	<u>\$ -3,711</u>

SOURCES

Department of Human Rights  
 Criminal and Juvenile Justice Planning Division  
 Department of Corrections

(LSB 4297hv, PQP)

FILED MARCH 26, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

Kremer  
Coon  
Kreiman

HSB 658

JUDICIARY  
Succeeded By  
SF/HF 2469

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY CHAIR-  
PERSON HURLEY)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

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5 provided in this chapter, and who operates a motor vehicle  
6 upon the highways of this state while the license or privilege  
7 is denied, canceled, suspended, or revoked, commits a serious  
8 simple misdemeanor.

9 EXPLANATION

10 This bill changes the penalty for the offense of driving  
11 while a license or operating privilege is denied, revoked,  
12 cancelled, or suspended. The current classification is a  
13 serious misdemeanor, which permits a court to impose a fine of  
14 \$250 to \$1,500, and a jail term of up to one year. The bill  
15 would change the classification to a simple misdemeanor, which  
16 carries a penalty of a fine of between \$50 to \$100, or up to  
17 30 days of jail time.

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