

MAR 8 1995

JUDICIARY

HOUSE FILE 297

BY WITT, KLEMME, SCHULTE,  
WELTER, CONNORS, COON,  
HARPER, MASCHER, and MUNDIE

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

**A BILL FOR**

1 An Act to provide for the impoundment of motor vehicles which are  
2 driven by persons whose licenses are suspended, revoked, or  
3 barred, for operating while intoxicated or offenses in which a  
4 violation of the prohibition against operating while  
5 intoxicated is established, and providing a procedure for  
6 return of motor vehicles which are impounded.

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

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**HOUSE FILE 297**

**H-3838**

1 Amend House File 297 as follows:

2 1. Page 4, by inserting after line 12 the  
3 following:

4 "Sec. \_\_\_\_ . NEW SECTION. 321M.5 PROCEDURES -- NOT  
5 LOSS OF USE.

6 The impoundment, immobilization, or forfeiture of a  
7 motor vehicle under this chapter does not constitute  
8 loss of use of a motor vehicle for purposes of any  
9 contract of insurance."

10 2. By renumbering as necessary.

By WITT of Black Hawk  
WELTER of Jones

1 H-3838 FILED APRIL 10, 1995

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HF 297

1 Section 1. NEW SECTION. 321M.1 IMPOUNDMENT OF MOTOR  
2 VEHICLES USED TO COMMIT CERTAIN OFFENSES -- LIABILITY OF OWNER  
3 PERMITTING ILLEGAL USE OF VEHICLE.

4 1. If a person whose motor vehicle license or operating  
5 privilege has been suspended, denied, revoked, or barred under  
6 section 321.209, 321.210, 321.210A, 321.560, 321A.4, 321A.5,  
7 321A.17, or 321J.17, for an offense which arose out of the  
8 same facts and circumstances that resulted in the person's  
9 conviction of a violation of section 321J.2, or has been  
10 revoked under section 321J.9 or 321J.12 or section 707.6A,  
11 subsection 1, paragraph "a", operates a motor vehicle in  
12 violation of section 321.218, 321.561, 321A.32, or 321J.21,  
13 and the person knew or should have known that the person's  
14 license has been suspended, denied, revoked, or barred, the  
15 motor vehicle which is operated shall be impounded as provided  
16 in this chapter. If the person who operates the motor vehicle  
17 is the owner of the motor vehicle, the person shall not be  
18 permitted to regain possession of the motor vehicle until the  
19 period of revocation or suspension has ended. The department  
20 of transportation shall send a copy of the notice advising a  
21 person convicted of a violation of section 321.218, 321.561,  
22 321A.32, or 321J.21, of the date of expiration of the period  
23 of revocation or suspension to the court which enters the  
24 order of conviction.

25 2. A person who owns a motor vehicle, who is not the  
26 person who operates the motor vehicle under subsection 1, but  
27 who knows of, should have known of, or gives consent to the  
28 operation of the motor vehicle in violation of subsection 1,  
29 shall be jointly liable for any damage caused by the person  
30 who operated the motor vehicle, as well as for any costs  
31 associated with the seizure or impoundment of the motor  
32 vehicle.

33 Sec. 2. NEW SECTION. 321M.2 NOTICE OF SEIZURE.

34 Upon the arrest of a person for a violation of section  
35 321.218, 321.561, 321A.32, or 321J.21, the motor vehicle used

1 to commit the offense shall be seized. The officer taking  
2 possession of the motor vehicle shall make a written inventory  
3 of the motor vehicle and any property contained in the vehicle  
4 and deliver a copy of the inventory to the person from whom it  
5 was seized and the county attorney. If the person operating  
6 the motor vehicle is not the registered owner or titleholder  
7 of the vehicle, the officer shall also cause a copy of the  
8 inventory to be delivered to the registered owner or  
9 titleholder, or both the registered owner and titleholder if  
10 they are different persons. The county attorney shall file a  
11 copy of the inventory with the district court in the county in  
12 which the motor vehicle was seized, along with a list of the  
13 names and addresses of the persons who have received copies of  
14 the inventory.

15 Sec. 3. NEW SECTION. 321M.3 APPLICATIONS FOR RETURN OF  
16 VEHICLE.

17 Any person claiming right to immediate possession of the  
18 vehicle may make application for the vehicle's return in the  
19 office of the clerk of the district court for the county in  
20 which the property was seized. The application shall state  
21 the nature of the claimant's interest and the grounds upon  
22 which the claimant seeks to have the property immediately  
23 returned. If no grounds are set out in the application for a  
24 return, the court may enter judgment on the pleadings without  
25 further hearing.

26 Sec. 4. NEW SECTION. 321M.4 HEARING -- APPEAL.

27 1. Unless the person making application is the person who  
28 operated the motor vehicle in violation of section 321.218,  
29 321.561, 321A.32, or 321J.21, an application for the return of  
30 the motor vehicle shall be set for hearing not less than five  
31 nor more than thirty days after the filing of the application  
32 and shall be tried to the court. If the person making  
33 application is the person who operated the motor vehicle, the  
34 hearing on the application shall be held not less than five  
35 nor more than thirty days after receipt of the copy of the

1 notice of the period of revocation, suspension, or bar from  
2 the department of transportation. All claims to the same  
3 motor vehicle shall be heard in one proceeding unless it is  
4 shown that the proceeding would result in prejudice to one or  
5 more parties. If the total value of the motor vehicle sought  
6 to be returned is less than ten thousand dollars, the  
7 proceeding may be conducted by a magistrate or a district  
8 associate judge, and appeals are to be conducted under the  
9 same procedures applicable to appeals of small claims. In all  
10 other cases, the hearing shall be conducted by a district  
11 judge. Appeals from judgments entered by a district judge  
12 shall be made within thirty days after the entry of a judgment  
13 order. The motor vehicle shall remain in impoundment during  
14 the course of the appeal.

15 2. The following persons shall be entitled to immediate  
16 return of the motor vehicle without payment of costs  
17 associated with seizure or impoundment of the vehicle:

18 a. The owner of the motor vehicle, if the person is not  
19 the same person as the person who operated the motor vehicle  
20 and the motor vehicle was operated without the owner's  
21 knowledge or consent, either express or implied.

22 b. A motor vehicle rental or leasing agency, if the agency  
23 did not or could not have known that the person operating the  
24 motor vehicle did not have a valid motor vehicle license or  
25 operating privileges and the operation of the motor vehicle in  
26 violation of section 321.218, 321.561, 321A.32, or 321J.21  
27 constitutes a violation of the rental or leasing agreement.

28 c. A person who owns the motor vehicle and who is charged  
29 but is not convicted of the violation of section 321.218,  
30 321.561, 321A.32, or 321J.21, which resulted in the seizure  
31 and impoundment of the motor vehicle under this chapter.

32 3. A person who owns a motor vehicle which has been seized  
33 and impounded under this chapter who knew or should have  
34 known, or who gave consent to the operation of the motor  
35 vehicle by the person whose motor vehicle license was

1 suspended or revoked, shall be entitled to the return of the  
2 motor vehicle upon payment of the costs, as well as the costs  
3 of the hearing on the application, which are associated with  
4 the seizure and impoundment of the motor vehicle.

5 4. A person who owns a motor vehicle which has been seized  
6 and impounded under this chapter who has been convicted of a  
7 violation of section 321.218, 321.561, 321A.32, or 321J.21  
8 shall be entitled to the return of the motor vehicle upon  
9 expiration of the period of revocation or suspension and upon  
10 payment of the costs, as well as the costs of the hearing on  
11 the application, which are associated with the seizure and  
12 impoundment of the motor vehicle.

13 EXPLANATION

14 This bill provides for the impoundment of motor vehicles  
15 used to commit knowing violations of various provisions  
16 prohibiting the operation of motor vehicles while a person's  
17 motor vehicle license is suspended, revoked, or barred if the  
18 reason for the suspension, revocation, or bar is related to an  
19 operation while intoxicated offense. Persons who use their  
20 own vehicles to commit the offenses specified under the  
21 chapter cannot get the vehicles back until after the period of  
22 suspension, revocation, or bar have ended and the person has  
23 paid for the costs associated with the seizure and  
24 impoundment. Persons who are not convicted of one of the  
25 offenses and persons who did not knowingly permit the use of  
26 the motor vehicle in the commission of the offense are  
27 permitted to get their vehicles back without paying for the  
28 costs of seizure and impoundment. Persons who did know or  
29 consent to the use of the vehicle by someone whose license is  
30 revoked, suspended, or barred can get the vehicle back, but  
31 they are not only jointly liable for any damage that the  
32 person who committed the offense may have caused but they also  
33 must pay for the costs associated with the seizure and  
34 impoundment of the motor vehicle.

35 A hearing must be held on applications for possession of a

1 motor vehicle. If the owner of the vehicle is not the person  
2 who operated the vehicle while under revocation, suspension,  
3 or a bar, then the hearing is to be held not sooner than five  
4 but not less than 30 days after the filing of the application.  
5 If the owner is the person who committed the violation, the  
6 hearing is to be held not sooner than five but not less than  
7 30 days after receipt of the notice from the department of  
8 transportation, which contains the information relating to the  
9 length of revocation, suspension, or bar. If the value of the  
10 motor vehicle is less than \$10,000, the hearing may be held  
11 before a magistrate or district associate judge and appealed  
12 in the same manner as small claims proceedings. If the value  
13 of the motor vehicle is \$10,000 or more, the matter is to be  
14 heard by a district judge. Appeals from an order of a  
15 district judge are to be made within 30 days of entry of the  
16 order. The motor vehicle is to remain in impoundment during  
17 the course of the appeal.

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