

4/10/95 Referred to Judiciary

**MAR 10 1995**  
**Place On Calendar**

HOUSE FILE 343  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 88)

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

**A BILL FOR**

1 An Act requiring the administrative revocation of driving  
2 privileges of persons under the age of nineteen who operate a  
3 motor vehicle with an alcohol concentration of .02 or more,  
4 denying issuance of temporary restricted licenses during the  
5 period of revocation, including the revocation under implied  
6 consent provisions, providing for civil penalties, and  
7 excluding the revocation from application of certain motor  
8 vehicle financial responsibility requirements.

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

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HF 343

1 Section 1. Section 321.12, Code 1995, is amended by adding  
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The director shall destroy any  
4 operating records pertaining to revocations for violations of  
5 section 321J.2A which are more than twelve years old. The  
6 twelve-year period shall commence with the date the revocation  
7 of the person's operating privileges becomes effective. This  
8 paragraph shall not apply to records of revocations which  
9 pertain to violations of section 321J.2A by persons who were  
10 operating a commercial motor vehicle.

11 Sec. 2. Section 321A.17, subsection 5, Code 1995, is  
12 amended to read as follows:

13 5. An individual applying for a motor vehicle license  
14 following a period of suspension or revocation under section  
15 321.209, subsection 8, section 321.210, subsection 1,  
16 paragraph "d", or section 321.210A, 321.213B, 321.216B, or  
17 321.513, ~~or~~ following a period of suspension under section  
18 321.194, or following a period of revocation under section  
19 321J.2A, is not required to maintain proof of financial  
20 responsibility under this section.

21 Sec. 3. NEW SECTION. 321J.2A PERSONS UNDER THE AGE OF  
22 NINETEEN.

23 A person who is under the age of nineteen shall not operate  
24 a motor vehicle while having an alcohol concentration, as  
25 defined under section 321J.1, of .02 or more. The motor  
26 vehicle license or nonresident operation privilege of a person  
27 who is under the age of nineteen and who operates a motor  
28 vehicle while having an alcohol concentration of .02 or more,  
29 shall be revoked by the department for the period of time  
30 specified under section 321J.12. A revocation under this  
31 section shall not preclude a prosecution or conviction under  
32 any applicable criminal provisions of this chapter. However,  
33 if the person is convicted of a criminal offense under section  
34 321J.2, the revocation imposed under this section shall be  
35 superseded by any revocation imposed as a result of the

1 conviction.

2 In any proceeding regarding a revocation under this  
3 section, evidence of the results of analysis of a specimen of  
4 the defendant's blood, breath, or urine is admissible upon  
5 proof of a proper foundation. The alcohol concentration  
6 established by the results of an analysis of a specimen of the  
7 defendant's blood, breath, or urine withdrawn within two hours  
8 after the defendant was driving or in physical control of a  
9 motor vehicle is presumed to be the alcohol concentration at  
10 the time of driving or being in physical control of the motor  
11 vehicle.

12 Sec. 4. Section 321J.4, subsection 8, Code 1995, is  
13 amended to read as follows:

14 8. A person whose motor vehicle license has either been  
15 revoked under this chapter, or revoked or suspended under  
16 chapter 321 solely for violations of this chapter, or who has  
17 been determined to be a habitual offender under chapter 321  
18 based solely on violations of this chapter, and who is not  
19 eligible for a temporary restricted license under this chapter  
20 may petition the court for an order to the department to  
21 require the department to issue a temporary restricted license  
22 to the person notwithstanding section 321.560. The court  
23 shall determine if the temporary restricted license is  
24 necessary for the person to maintain the person's present  
25 employment. If the court determines that the temporary  
26 restricted license is necessary for the person to maintain the  
27 person's present employment, the court shall order the  
28 department to issue to the person a temporary restricted  
29 license conditioned upon the person's certification to the  
30 court of the installation of approved ignition interlock  
31 devices in all motor vehicles that it is necessary for the  
32 person to operate to maintain the person's present employment.  
33 However, a temporary restricted license shall not be ordered  
34 or issued for violations of section 321J.2A or to persons  
35 under the age of nineteen who commit violations under section

1 321J.2. Section 321.561 does not apply to a person operating  
2 a motor vehicle in the manner permitted under this subsection.  
3 If the person operates a motor vehicle which does not have an  
4 approved ignition interlock device or if the person tampers  
5 with or circumvents an ignition interlock device, in addition  
6 to other penalties provided, the person's temporary restricted  
7 license shall be revoked. A person holding a temporary  
8 restricted license issued under this subsection shall not  
9 operate a commercial motor vehicle, as defined in section  
10 321.1, on a highway if a commercial driver's license is  
11 required for the person to operate the commercial motor  
12 vehicle.

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

15 321J.5 PRELIMINARY SCREENING TEST.

16 1. When a peace officer has reasonable grounds to believe  
17 that ~~a~~ either of the following have occurred, the peace  
18 officer may request that the operator provide a sample of the  
19 operator's breath for a preliminary screening test using a  
20 device approved by the commissioner of public safety for that  
21 purpose:

22 a. A motor vehicle operator may be violating or has  
23 violated section 321J.27, or the 321J.2A.

24 b. The operator has been involved in a motor vehicle  
25 collision resulting in injury or death, ~~the peace officer may~~  
26 ~~request the operator to provide a sample of the operator's~~  
27 ~~breath for a preliminary screening test using a device~~  
28 ~~approved by the commissioner of public safety for that~~  
29 purpose.

30 2. The results of this preliminary screening test may be  
31 used for the purpose of deciding whether an arrest should be  
32 made ~~and~~ or whether to request a chemical test authorized in  
33 this chapter, but shall not be used in any court action except  
34 to prove that a chemical test was properly requested of a  
35 person pursuant to this chapter.

1 Sec. 6. Section 321J.6, subsection 1, unnumbered paragraph  
2 1, Code 1995, is amended to read as follows:

3 A person who operates a motor vehicle in this state under  
4 circumstances which give reasonable grounds to believe that  
5 the person has been operating a motor vehicle in violation of  
6 section 321J.2 or 321J.2A is deemed to have given consent to  
7 the withdrawal of specimens of the person's blood, breath, or  
8 urine and to a chemical test or tests of the specimens for the  
9 purpose of determining the alcohol concentration or presence  
10 of drugs, subject to this section. The withdrawal of the body  
11 substances and the test or tests shall be administered at the  
12 written request of a peace officer having reasonable grounds  
13 to believe that the person was operating a motor vehicle in  
14 violation of section 321J.2 or 321J.2A, and if any of the  
15 following conditions exist:

16 Sec. 7. Section 321J.6, subsection 1, Code 1995, is  
17 amended by adding the following new paragraph:

18 NEW PARAGRAPH. g. The preliminary breath screening test  
19 was administered and it indicated an alcohol concentration of  
20 .02 or more but less than .10 and the person is under the age  
21 of twenty-one.

22 Sec. 8. Section 321J.8, subsection 2, Code 1995, is  
23 amended to read as follows:

24 2. If the person submits to the test and the results  
25 indicate an alcohol concentration as defined in section 321J.1  
26 of .10 or more, or the person is under the age of nineteen and  
27 the results indicate an alcohol concentration of .02 or more,  
28 but less than .10, the person's license or operating privilege  
29 will be revoked by the department for the applicable period  
30 under section 321J.12.

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

33 321J.9 REFUSAL TO SUBMIT -- REVOCATION.

34 1. If a person refuses to submit to the chemical testing,  
35 a test shall not be given, but the department, upon the

1 receipt of the peace officer's certification, subject to  
2 penalty for perjury, that the officer had reasonable grounds  
3 to believe the person to have been operating a motor vehicle  
4 in violation of section 321J.2 or 321J.2A, that specified  
5 conditions existed for chemical testing pursuant to section  
6 321J.6, and that the person refused to submit to the chemical  
7 testing, shall revoke the person's motor vehicle license and  
8 any nonresident operating privilege for a period of two  
9 hundred forty days if the person has no previous revocation  
10 within the previous six years under this chapter, and five  
11 hundred forty days if the person has one or more previous  
12 revocations within the previous six years under this chapter,  
13 or-if. If the person is a resident without a license or  
14 permit to operate a motor vehicle in this state, the  
15 department shall deny to the person the issuance of a license  
16 or permit for the same period a license or permit would be  
17 revoked, subject to review as provided in this chapter.

18 2. The effective date of revocation shall be twenty days  
19 after the department has mailed notice of revocation to the  
20 person by certified mail or, on behalf of the department, a  
21 peace officer offering or directing the administration of a  
22 chemical test may serve immediate notice of intention to  
23 revoke and of revocation on a person who refuses to permit  
24 chemical testing. If the peace officer serves that immediate  
25 notice, the peace officer shall take the Iowa license or  
26 permit of the driver, if any, and issue a temporary license  
27 effective for only twenty days. The peace officer shall  
28 immediately send the person's license to the department along  
29 with the officer's certificate indicating the person's refusal  
30 to submit to chemical testing.

31 Sec. 10. Section 321J.12, Code 1995, is amended to read as  
32 follows:

33 321J.12 TEST RESULT REVOCATION.

34 1. Upon certification, subject to penalty for perjury, by  
35 the peace officer that there existed reasonable grounds to

1 believe that the person had been operating a motor vehicle in  
2 violation of section 321J.2, that there existed one or more of  
3 the necessary conditions for chemical testing described in  
4 section 321J.6, subsection 1, and that the person submitted to  
5 chemical testing and the test results indicated an alcohol  
6 concentration as defined in section 321J.1 of .10 or more, the  
7 department shall revoke the person's motor vehicle license or  
8 nonresident operating privilege for a period of one hundred  
9 eighty days if the person has had no revocation within the  
10 previous six years under this chapter, and one year if the  
11 person has had one or more previous revocations within the  
12 previous six years under this chapter.

13 The effective date of the revocation shall be twenty days  
14 after the department has mailed notice of revocation to the  
15 person by certified mail. The peace officer who requested or  
16 directed the administration of the chemical test may, on  
17 behalf of the department, serve immediate notice of revocation  
18 on a person whose test results indicated an alcohol  
19 concentration of .10 or more.

20 If the peace officer serves that immediate notice, the  
21 peace officer shall take the person's Iowa license or permit,  
22 if any, and issue a temporary license valid only for twenty  
23 days. The peace officer shall immediately send the person's  
24 driver's license to the department along with the officer's  
25 certificate indicating that the test results indicated an  
26 alcohol concentration of .10 or more.

27 2. Upon certification, subject to penalty of perjury, by  
28 the peace officer that there existed reasonable grounds to  
29 believe that the person had been operating a motor vehicle in  
30 violation of section 321J.2A, that there existed one or more  
31 of the necessary conditions for chemical testing described in  
32 section 321J.6, subsection 1, and that the person submitted to  
33 chemical testing and the test results indicated an alcohol  
34 concentration as defined in section 321J.1 of .02 or more but  
35 less than .10, the department shall revoke the person's motor

1 vehicle license or operating privilege for a period of thirty  
2 days if the person has had no revocations within the previous  
3 six years under section 321J.2A, and for a period of ninety  
4 days if the person has had one or more previous revocations  
5 within the previous six years under section 321J.2A.

6 3. The results of a chemical test may not be used as the  
7 basis for a revocation of a person's motor vehicle license or  
8 nonresident operating privilege if the alcohol concentration  
9 indicated by the chemical test minus the established margin of  
10 error inherent in the device or method used to conduct the  
11 chemical test does not equal an alcohol concentration of .10  
12 or more for violations under section 321J.2 or of .02 or more  
13 for violations of section 321J.2A.

14 Sec. 11. Section 321J.13, subsections 2 through 5, Code  
15 1995, are amended to read as follows:

16 2. The department shall grant the person an opportunity to  
17 be heard within forty-five days of receipt of a request for a  
18 hearing if the request is made not later than thirty days  
19 after receipt of notice of revocation served pursuant to  
20 section 321J.9 or 321J.12. The hearing shall be before the  
21 department in the county where the alleged events occurred,  
22 unless the director and the person agree that the hearing may  
23 be held in some other county, or the hearing may be held by  
24 telephone conference at the discretion of the agency  
25 conducting the hearing. The hearing may be recorded and its  
26 scope shall be limited to the issues of whether a peace  
27 officer had reasonable grounds to believe that the person was  
28 operating a motor vehicle in violation of section 321J.2 or  
29 321J.2A and either of the following:

30 a. Whether the person refused to submit to the test or  
31 tests.

32 b. Whether a test was administered and the test results  
33 indicated an alcohol concentration as defined in section  
34 321J.1 of .10 or more or whether a test was administered and  
35 the test results indicated an alcohol concentration as defined

1 in section 321J.1 of .02 or more pursuant to section 321J.2A.  
2 3. After the hearing the department shall order that the  
3 revocation be either rescinded or sustained. If the  
4 revocation is sustained, the administrative law judge who  
5 conducted the hearing may issue a temporary restricted license  
6 to the person whose motor vehicle license or operating  
7 privilege was revoked. However, a temporary restricted  
8 license shall not be issued for a violation of section 321J.2A  
9 or to persons who are under the age of nineteen and who commit  
10 violations under section 321J.2. Upon receipt of the decision  
11 of the department to sustain a revocation, the person  
12 contesting the revocation has ten days to file a request for  
13 review of the decision by the director. The director or the  
14 director's designee shall review the decision within fifteen  
15 days and shall either rescind or sustain the revocation or  
16 order a new hearing. If the director orders a new hearing,  
17 the department shall grant the person a new hearing within  
18 thirty days of the director's order.

19 4. A person whose motor vehicle license or operating  
20 privilege has been or is being revoked under section 321J.9 or  
21 321J.12 may reopen a department hearing on the revocation if  
22 the person submits a petition stating that new evidence has  
23 been discovered which provides grounds for rescission of the  
24 revocation, or prevail at the hearing to rescind the  
25 revocation, if the person submits a petition stating that a  
26 criminal action on a charge of a violation of section 321J.2  
27 filed as a result of the same circumstances which resulted in  
28 the revocation has resulted in a decision in which the court  
29 has held that the peace officer did not have reasonable  
30 grounds to believe that a violation of section 321J.2 or  
31 321J.2A had occurred to support a request for or to administer  
32 a chemical test or which has held the chemical test to be  
33 otherwise inadmissible or invalid. Such a decision by the  
34 court is binding on the department and the department shall  
35 rescind the revocation.

1 5. The department shall stay the revocation of a person's  
2 motor vehicle license or operating privilege for the period  
3 that the person is contesting the revocation under this  
4 section or section 321J.14 if it is shown to the satisfaction  
5 of the department that the new evidence is material and that  
6 there were valid reasons for failure to present it in the  
7 contested case proceeding before the department. However, a  
8 stay shall not be granted for violations of section 321J.2A.

9 Sec. 12. Section 321J.15, Code 1995, is amended to read as  
10 follows:

11 321J.15 EVIDENCE IN ANY ACTION.

12 Upon the trial of a civil or criminal action or proceeding  
13 arising out of acts alleged to have been committed by a person  
14 while operating a motor vehicle in violation of section 321J.2  
15 or 321J.2A, evidence of the alcohol concentration or the  
16 presence of drugs in the person's body substances at the time  
17 of the act alleged as shown by a chemical analysis of the  
18 person's blood, breath, or urine is admissible. If it is  
19 established at trial that an analysis of a breath specimen was  
20 performed by a certified operator using a device and methods  
21 approved by the commissioner of public safety, no further  
22 foundation is necessary for introduction of the evidence.

23 Sec. 13. Section 321J.16, Code 1995, is amended to read as  
24 follows:

25 321J.16 PROOF OF REFUSAL ADMISSIBLE.

26 If a person refuses to submit to a chemical test, proof of  
27 refusal is admissible in any civil or criminal action or  
28 proceeding arising out of acts alleged to have been committed  
29 while the person was operating a motor vehicle in violation of  
30 section 321J.2 or 321J.2A.

31 Sec. 14. Section 321J.20, subsection 2, Code 1995, is  
32 amended to read as follows:

33 2. This section does not apply to a person whose license  
34 was revoked under section 321J.2A or section 321J.4,  
35 subsection 3 or 5, or to a person whose license is suspended

1 or revoked for another reason.

2 EXPLANATION

3 This bill provides for the administrative revocation of the  
4 motor vehicle license or nonresident operating privileges of  
5 persons under the age of 19 who are found to be operating a  
6 motor vehicle while having an alcohol concentration level of  
7 .02 or greater, but less than .10. The revocations are for 30  
8 days for a first offense and 90 days for a second or  
9 subsequent offense. Under the bill, once the period of  
10 revocation ends the individual is not subject to the motor  
11 vehicle financial responsibility provisions, but if the person  
12 drives while the person's license is revoked, criminal  
13 penalties will apply. A person whose license or operating  
14 privilege is revoked under the new provisions is required to  
15 pay the civil penalty to regain the person's license or  
16 privilege. The implied consent provisions and the two-hour  
17 limitation on chemical test results do apply to the requests  
18 for chemical testing under the .02 standard. Under the bill,  
19 persons whose licenses are revoked for being over the .02  
20 level are not eligible to receive temporary restricted  
21 licenses during the period of revocation. Provision is made  
22 for destruction of records relating to the revocation under  
23 the new provisions after the revocation is twelve years old.

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## HOUSE FILE 343

H-3296

1 Amend House File 343, as follows:  
2 1. Page 1, line 22, by striking the word  
3 "NINETEEN" and inserting the following: "TWENTY-ONE".  
4 2. Page 1, line 23, by striking the word  
5 "nineteen" and inserting the following: "twenty-one  
6 and who has not obtained a high school diploma or high  
7 school equivalency diploma".  
8 3. Page 1, line 27, by striking the word  
9 "nineteen" and inserting the following: "twenty-one,  
10 who has not obtained a high school diploma or high  
11 school equivalency diploma,".  
12 4. Page 2, line 35, by striking the word  
13 "nineteen" and inserting the following: "twenty-one,  
14 who have not obtained a high school diploma or high  
15 school equivalency diploma, and".  
16 5. Page 4, line 26, by striking the word  
17 "nineteen" and inserting the following: "twenty-one  
18 and has not obtained a high school diploma or high  
19 school equivalency diploma".  
20 6. Page 8, line 9, by striking the word  
21 "nineteen" and inserting the following: "twenty-one,  
22 who has not obtained a high school diploma or high  
23 school equivalency diploma,".  
24 7. Title page, line 2, by striking the word  
25 "nineteen" and inserting the following: "twenty-one,  
26 who have not obtained a high school diploma or high  
27 school equivalency diploma, and".

By COON of Warren

H-3296 FILED MARCH 14, 1995

## HOUSE FILE 343

H-3349

1 Amend House File 343 as follows:  
2 1. Page 1, line 22, by striking the word  
3 "NINETEEN" and inserting the following: "TWENTY-ONE".  
4 2. Page 1, line 23, by striking the word  
5 "nineteen" and inserting the following: "twenty-one".  
6 3. Page 1, line 27, by striking the word  
7 "nineteen" and inserting the following: "twenty-one".  
8 4. Page 2, line 35, by striking the word  
9 "nineteen" and inserting the following: "twenty-one".  
10 5. Page 4, line 26, by striking the word  
11 "nineteen" and inserting the following: "twenty-one".  
12 6. Page 8, line 9, by striking the word  
13 "nineteen" and inserting the following: "twenty-one".  
14 7. Title page, line 2, by striking the word  
15 "nineteen" and inserting the following: "twenty-one".

By MUNDIE of Webster

H-3349 FILED MARCH 20, 1995

HOUSE FILE 343

H-3562

1 Amend House File 343 as follows:

2 1. Page 1, line 7, by inserting after the word  
3 "effective." the following: "However, if the person,  
4 to whom the record pertains, reaches the age of  
5 twenty-one prior to the expiration of the twelve-year  
6 period, the record shall be destroyed when the person  
7 reaches the age of twenty-one."

8 2. Page 2, by inserting after line 11 the  
9 following:

10 "Any records of a criminal justice agency  
11 pertaining to violation of this section shall be  
12 destroyed when the person who committed the violation  
13 reaches the age of twenty-one."

By SHOULTZ of Black Hawk

H-3562 FILED MARCH 29, 1995

HSB 88

JUDICIARY

Veenstra, Chair  
Coon  
Shultz  
Sweeney

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT  
OF PUBLIC SAFETY BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act requiring the administrative revocation of driving  
2 privileges of persons under the age of twenty-one who operate  
3 a motor vehicle with an alcohol concentration of .02 or more,  
4 denying issuance of temporary restricted licenses during the  
5 period of revocation, including the revocation under implied  
6 consent provisions, providing for civil penalties, and  
7 excluding the revocation from application of certain motor  
8 vehicle financial responsibility requirements.

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

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1 Section 1. Section 321.12, Code 1995, is amended by adding  
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The director shall destroy any  
4 operating records pertaining to revocations for violations of  
5 section 321J.2A which are more than twelve years old. The  
6 twelve-year period shall commence with the date the revocation  
7 of the person's operating privileges becomes effective. This  
8 paragraph shall not apply to records of revocations which  
9 pertain to violations of section 321J.2A by persons who were  
10 operating a commercial motor vehicle.

11 Sec. 2. Section 321A.17, subsection 5, Code 1995, is  
12 amended to read as follows:

13 5. An individual applying for a motor vehicle license  
14 following a period of suspension or revocation under section  
15 321.209, subsection 8, section 321.210, subsection 1,  
16 paragraph "d", or section 321.210A, 321.213B, 321.216B, or  
17 321.513, ~~or~~ following a period of suspension under section  
18 321.194, or following a period of revocation under section  
19 321J.2A, is not required to maintain proof of financial  
20 responsibility under this section.

21 Sec. 3. NEW SECTION. 321J.2A PERSONS UNDER THE AGE OF  
22 TWENTY-ONE.

23 A person who is under the age of twenty-one shall not  
24 operate a motor vehicle while having an alcohol concentration,  
25 as defined under section 321J.1, of .02 or more. The motor  
26 vehicle license or nonresident operation privilege of a person  
27 who is under the age of twenty-one and who operates a motor  
28 vehicle while having an alcohol concentration of .02 or more,  
29 shall be revoked by the department for the period of time  
30 specified under section 321J.12. A revocation under this  
31 section shall not preclude a prosecution or conviction under  
32 any applicable criminal provisions of this chapter. However,  
33 if the person is convicted of a criminal offense under section  
34 321J.2, the revocation imposed under this section shall be  
35 superseded by any revocation imposed as a result of the

1 conviction.

2 In any proceeding regarding a revocation under this  
3 section, evidence of the results of analysis of a specimen of  
4 the defendant's blood, breath, or urine is admissible upon  
5 proof of a proper foundation. The alcohol concentration  
6 established by the results of an analysis of a specimen of the  
7 defendant's blood, breath, or urine withdrawn within two hours  
8 after the defendant was driving or in physical control of a  
9 motor vehicle is presumed to be the alcohol concentration at  
10 the time of driving or being in physical control of the motor  
11 vehicle.

12 Sec. 4. Section 321J.4, subsection 8, Code 1995, is  
13 amended to read as follows:

14 8. A person whose motor vehicle license has either been  
15 revoked under this chapter, or revoked or suspended under  
16 chapter 321 solely for violations of this chapter, or who has  
17 been determined to be a habitual offender under chapter 321  
18 based solely on violations of this chapter, and who is not  
19 eligible for a temporary restricted license under this chapter  
20 may petition the court for an order to the department to  
21 require the department to issue a temporary restricted license  
22 to the person notwithstanding section 321.560. The court  
23 shall determine if the temporary restricted license is  
24 necessary for the person to maintain the person's present  
25 employment. If the court determines that the temporary  
26 restricted license is necessary for the person to maintain the  
27 person's present employment, the court shall order the  
28 department to issue to the person a temporary restricted  
29 license conditioned upon the person's certification to the  
30 court of the installation of approved ignition interlock  
31 devices in all motor vehicles that it is necessary for the  
32 person to operate to maintain the person's present employment.  
33 However, a temporary restricted license shall not be ordered  
34 or issued for violations of section 321J.2A or to persons  
35 under the age of 21 who commit violations under section

1 321J.2. Section 321.561 does not apply to a person operating  
2 a motor vehicle in the manner permitted under this subsection.  
3 If the person operates a motor vehicle which does not have an  
4 approved ignition interlock device or if the person tampers  
5 with or circumvents an ignition interlock device, in addition  
6 to other penalties provided, the person's temporary restricted  
7 license shall be revoked. A person holding a temporary  
8 restricted license issued under this subsection shall not  
9 operate a commercial motor vehicle, as defined in section  
10 321.1, on a highway if a commercial driver's license is  
11 required for the person to operate the commercial motor  
12 vehicle.

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

15 321J.5 PRELIMINARY SCREENING TEST.

16 1. When a peace officer has reasonable grounds to believe  
17 that a either of the following have occurred, the peace  
18 officer may request that the operator provide a sample of the  
19 operator's breath for a preliminary screening test using a  
20 device approved by the commissioner of public safety for that  
21 purpose:

22 a. A motor vehicle operator may be violating or has  
23 violated section 321J.27 or the 321J.2A.

24 b. ~~The operator has been involved in a motor vehicle~~  
25 ~~collision resulting in injury or death, the peace officer may~~  
26 ~~request the operator to provide a sample of the operator's~~  
27 ~~breath for a preliminary screening test using a device~~  
28 ~~approved by the commissioner of public safety for that~~  
29 ~~purpose.~~

30 2. The results of this preliminary screening test may be  
31 used for the purpose of deciding whether an arrest should be  
32 made and or whether to request a chemical test authorized in  
33 this chapter, but shall not be used in any court action except  
34 to prove that a chemical test was properly requested of a  
35 person pursuant to this chapter.

1 Sec. 6. Section 321J.6, subsection 1, unnumbered paragraph  
2 1, Code 1995, is amended to read as follows:

3 A person who operates a motor vehicle in this state under  
4 circumstances which give reasonable grounds to believe that  
5 the person has been operating a motor vehicle in violation of  
6 section 321J.2 or 321J.2A is deemed to have given consent to  
7 the withdrawal of specimens of the person's blood, breath, or  
8 urine and to a chemical test or tests of the specimens for the  
9 purpose of determining the alcohol concentration or presence  
10 of drugs, subject to this section. The withdrawal of the body  
11 substances and the test or tests shall be administered at the  
12 written request of a peace officer having reasonable grounds  
13 to believe that the person was operating a motor vehicle in  
14 violation of section 321J.2 or 321J.2A, and if any of the  
15 following conditions exist:

16 Sec. 7. Section 321J.6, subsection 1, Code 1995, is  
17 amended by adding the following new paragraph:

18 NEW PARAGRAPH. g. The preliminary breath screening test  
19 was administered and it indicated an alcohol concentration of  
20 .02 or more but less than .10 and the person is under the age  
21 of twenty-one.

22 Sec. 8. Section 321J.8, subsection 2, Code 1995, is  
23 amended to read as follows:

24 2. If the person submits to the test and the results  
25 indicate an alcohol concentration as defined in section 321J.1  
26 of .10 or more, or the person is under the age of twenty-one  
27 and the results indicate an alcohol concentration of .02 or  
28 more, but less than .10, the person's license or operating  
29 privilege will be revoked by the department for the applicable  
30 period under section 321J.12.

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

33 321J.9 REFUSAL TO SUBMIT -- REVOCATION.

34 1. If a person refuses to submit to the chemical testing,  
35 a test shall not be given, but the department, upon the

1 receipt of the peace officer's certification, subject to  
2 penalty for perjury, that the officer had reasonable grounds  
3 to believe the person to have been operating a motor vehicle  
4 in violation of section 321J.2 or 321J.2A, that specified  
5 conditions existed for chemical testing pursuant to section  
6 321J.6, and that the person refused to submit to the chemical  
7 testing, shall revoke the person's motor vehicle license and  
8 any nonresident operating privilege for a period of two  
9 hundred forty days if the person has no previous revocation  
10 within the previous six years under this chapter, and five  
11 hundred forty days if the person has one or more previous  
12 revocations within the previous six years under this chapter,  
13 ~~or-if.~~ If the person is a resident without a license or  
14 permit to operate a motor vehicle in this state, the  
15 department shall deny to the person the issuance of a license  
16 or permit for the same period a license or permit would be  
17 revoked, subject to review as provided in this chapter.

18 2. The effective date of revocation shall be twenty days  
19 after the department has mailed notice of revocation to the  
20 person by certified mail or, on behalf of the department, a  
21 peace officer offering or directing the administration of a  
22 chemical test may serve immediate notice of intention to  
23 revoke and of revocation on a person who refuses to permit  
24 chemical testing. If the peace officer serves that immediate  
25 notice, the peace officer shall take the Iowa license or  
26 permit of the driver, if any, and issue a temporary license  
27 effective for only twenty days. The peace officer shall  
28 immediately send the person's license to the department along  
29 with the officer's certificate indicating the person's refusal  
30 to submit to chemical testing.

31 Sec. 10. Section 321J.12, Code 1995, is amended to read as  
32 follows:

33 321J.12 TEST RESULT REVOCATION.

34 1. Upon certification, subject to penalty for perjury, by  
35 the peace officer that there existed reasonable grounds to

1 believe that the person had been operating a motor vehicle in  
2 violation of section 321J.2, that there existed one or more of  
3 the necessary conditions for chemical testing described in  
4 section 321J.6, subsection 1, and that the person submitted to  
5 chemical testing and the test results indicated an alcohol  
6 concentration as defined in section 321J.1 of .10 or more, the  
7 department shall revoke the person's motor vehicle license or  
8 nonresident operating privilege for a period of one hundred  
9 eighty days if the person has had no revocation within the  
10 previous six years under this chapter, and one year if the  
11 person has had one or more previous revocations within the  
12 previous six years under this chapter.

13 The effective date of the revocation shall be twenty days  
14 after the department has mailed notice of revocation to the  
15 person by certified mail. The peace officer who requested or  
16 directed the administration of the chemical test may, on  
17 behalf of the department, serve immediate notice of revocation  
18 on a person whose test results indicated an alcohol  
19 concentration of .10 or more.

20 If the peace officer serves that immediate notice, the  
21 peace officer shall take the person's Iowa license or permit,  
22 if any, and issue a temporary license valid only for twenty  
23 days. The peace officer shall immediately send the person's  
24 driver's license to the department along with the officer's  
25 certificate indicating that the test results indicated an  
26 alcohol concentration of .10 or more.

27 2. Upon certification, subject to penalty of perjury, by  
28 the peace officer that there existed reasonable grounds to  
29 believe that the person had been operating a motor vehicle in  
30 violation of section 321J.2A, that there existed one or more  
31 of the necessary conditions for chemical testing described in  
32 section 321J.6, subsection 1, and that the person submitted to  
33 chemical testing and the test results indicated an alcohol  
34 concentration as defined in section 321J.1 of .02 or more but  
35 less than .10, the department shall revoke the person's motor

1 vehicle license or operating privilege for a period of thirty  
2 days if the person has had no revocations within the previous  
3 six years under section 321J.2A, and for a period of ninety  
4 days if the person has had one or more previous revocations  
5 within the previous six years under section 321J.2A.

6 3. The results of a chemical test may not be used as the  
7 basis for a revocation of a person's motor vehicle license or  
8 nonresident operating privilege if the alcohol concentration  
9 indicated by the chemical test minus the established margin of  
10 error inherent in the device or method used to conduct the  
11 chemical test does not equal an alcohol concentration of .10  
12 or more for violations under section 321J.2 or of .02 or more  
13 for violations of section 321J.2A.

14 Sec. 11. Section 321J.13, subsections 2 through 5, Code  
15 1995, are amended to read as follows:

16 2. The department shall grant the person an opportunity to  
17 be heard within forty-five days of receipt of a request for a  
18 hearing if the request is made not later than thirty days  
19 after receipt of notice of revocation served pursuant to  
20 section 321J.9 or 321J.12. The hearing shall be before the  
21 department in the county where the alleged events occurred,  
22 unless the director and the person agree that the hearing may  
23 be held in some other county, or the hearing may be held by  
24 telephone conference at the discretion of the agency  
25 conducting the hearing. The hearing may be recorded and its  
26 scope shall be limited to the issues of whether a peace  
27 officer had reasonable grounds to believe that the person was  
28 operating a motor vehicle in violation of section 321J.2 or  
29 321J.2A and either of the following:

30 a. Whether the person refused to submit to the test or  
31 tests.

32 b. Whether a test was administered and the test results  
33 indicated an alcohol concentration as defined in section  
34 321J.1 of .10 or more or whether a test was administered and  
35 the test results indicated an alcohol concentration as defined

1 in section 321J.1 of .02 or more pursuant to section 321J.2A.

2 3. After the hearing the department shall order that the  
3 revocation be either rescinded or sustained. If the  
4 revocation is sustained, the administrative law judge who  
5 conducted the hearing may issue a temporary restricted license  
6 to the person whose motor vehicle license or operating  
7 privilege was revoked. However, a temporary restricted  
8 license shall not be issued for a violation of section 321J.2A  
9 or to persons who are under the age of twenty-one and who  
10 commit violations under section 321J.2. Upon receipt of the  
11 decision of the department to sustain a revocation, the person  
12 contesting the revocation has ten days to file a request for  
13 review of the decision by the director. The director or the  
14 director's designee shall review the decision within fifteen  
15 days and shall either rescind or sustain the revocation or  
16 order a new hearing. If the director orders a new hearing,  
17 the department shall grant the person a new hearing within  
18 thirty days of the director's order.

19 4. A person whose motor vehicle license or operating  
20 privilege has been or is being revoked under section 321J.9 or  
21 321J.12 may reopen a department hearing on the revocation if  
22 the person submits a petition stating that new evidence has  
23 been discovered which provides grounds for rescission of the  
24 revocation, or prevail at the hearing to rescind the  
25 revocation, if the person submits a petition stating that a  
26 criminal action on a charge of a violation of section 321J.2  
27 filed as a result of the same circumstances which resulted in  
28 the revocation has resulted in a decision in which the court  
29 has held that the peace officer did not have reasonable  
30 grounds to believe that a violation of section 321J.2 or  
31 321J.2A had occurred to support a request for or to administer  
32 a chemical test or which has held the chemical test to be  
33 otherwise inadmissible or invalid. Such a decision by the  
34 court is binding on the department and the department shall  
35 rescind the revocation.

1 5. The department shall stay the revocation of a person's  
2 motor vehicle license or operating privilege for the period  
3 that the person is contesting the revocation under this  
4 section or section 321J.14 if it is shown to the satisfaction  
5 of the department that the new evidence is material and that  
6 there were valid reasons for failure to present it in the  
7 contested case proceeding before the department. However, a  
8 stay shall not be granted for violations of section 321J.2A.

9 Sec. 12. Section 321J.15, Code 1995, is amended to read as  
10 follows:

11 321J.15 EVIDENCE IN ANY ACTION.

12 Upon the trial of a civil or criminal action or proceeding  
13 arising out of acts alleged to have been committed by a person  
14 while operating a motor vehicle in violation of section 321J.2  
15 or 321J.2A, evidence of the alcohol concentration or the  
16 presence of drugs in the person's body substances at the time  
17 of the act alleged as shown by a chemical analysis of the  
18 person's blood, breath, or urine is admissible. If it is  
19 established at trial that an analysis of a breath specimen was  
20 performed by a certified operator using a device and methods  
21 approved by the commissioner of public safety, no further  
22 foundation is necessary for introduction of the evidence.

23 Sec. 13. Section 321J.16, Code 1995, is amended to read as  
24 follows:

25 321J.16 PROOF OF REFUSAL ADMISSIBLE.

26 If a person refuses to submit to a chemical test, proof of  
27 refusal is admissible in any civil or criminal action or  
28 proceeding arising out of acts alleged to have been committed  
29 while the person was operating a motor vehicle in violation of  
30 section 321J.2 or 321J.2A.

31 Sec. 14. Section 321J.20, subsection 2, Code 1995, is  
32 amended to read as follows:

33 2. This section does not apply to a person whose license  
34 was revoked under section 321J.2A or section 321J.4,  
35 subsection 3 or 5, or to a person whose license is suspended

1 or revoked for another reason.

2

#### EXPLANATION

3 This bill provides for the administrative revocation of the  
4 motor vehicle license or nonresident operating privileges of  
5 persons under the age of 21 who are found to be operating a  
6 motor vehicle while having an alcohol concentration level of  
7 .02 or greater, but less than .10. The revocations are for 30  
8 days for a first offense and 90 days for a second or  
9 subsequent offense. Under the bill, once the period of  
10 revocation ends the individual is not subject to the motor  
11 vehicle financial responsibility provisions, but if the person  
12 drives while the person's license is revoked, criminal  
13 penalties will apply. A person whose license or operating  
14 privilege is revoked under the new provisions is required to  
15 pay the civil penalty to regain the person's license or  
16 privilege. The implied consent provisions and the two-hour  
17 limitation on chemical test results do apply to the requests  
18 for chemical testing under the .02 standard. Under the bill,  
19 persons whose licenses are revoked for being over the .02  
20 level are not eligible to receive temporary restricted  
21 licenses during the period of revocation. Provision is made  
22 for destruction of records relating to the revocation under  
23 the new provisions after the revocation is twelve years old.

24

#### BACKGROUND STATEMENT

25

#### SUBMITTED BY THE AGENCY

26 Youth are particularly vulnerable to impairment at low  
27 blood alcohol concentrations. While drivers under 21 years of  
28 age represent only 10 percent of all registered drivers in  
29 Iowa, they make up nearly 20 percent of all drinking drivers  
30 and 21 percent of all drinking drivers involved in injury  
31 crashes.

32 As these numbers indicate, young drivers in Iowa are twice  
33 as likely to be involved in alcohol-related fatal crashes and  
34 injury crashes when compared to the entire driving population.  
35 Furthermore, it is unlawful for youth under the age of 21,

1 except in very limited circumstances, to purchase, possess, or  
2 consume alcohol. Getting behind the wheel of a motor vehicle  
3 after consuming alcohol disregards the risks to young drivers  
4 and to the motoring public.

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