

MAR 21 1995

Place On Calendar

HOUSE FILE 516

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 290)

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

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

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to imposing a civil penalty for certain motor  
2 vehicle license revocations, imposing a surcharge on scheduled  
3 fines and forfeitures, and providing for the appropriation and  
4 disposition of the proceeds from the civil penalty and from  
5 the surcharge for prisons and jails.

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

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HF 516

1 Section 1. NEW SECTION. 321.218A CIVIL PENALTY --  
2 DISPOSITION -- REINSTATEMENT.

3 When the department receives a record of a person's  
4 conviction for a violation of section 321.218, the department  
5 shall assess the person a civil penalty of two hundred  
6 dollars. The money collected by the department under this  
7 section shall be transmitted to the treasurer of state who  
8 shall deposit one-half of the money in the separate fund  
9 established in section 912.14 and one-half of the money shall  
10 be deposited in the general fund of the state. A temporary  
11 restricted license shall not be issued or a motor vehicle  
12 license or nonresident operating privilege reinstated until  
13 the civil penalty has been paid.

14 Sec. 2. NEW SECTION. 321.561A CIVIL PENALTY --  
15 DISPOSITION -- REINSTATEMENT.

16 When the department receives a record of a person's  
17 conviction for a violation of section 321.561, the department  
18 shall assess the person a civil penalty of two hundred  
19 dollars. The money collected by the department under this  
20 section shall be transmitted to the treasurer of state who  
21 shall deposit one-half of the money in the separate fund  
22 established in section 912.14 and one-half of the money shall  
23 be deposited in the general fund of the state. A temporary  
24 restricted license shall not be issued or a motor vehicle  
25 license or nonresident operating privilege reinstated until  
26 the civil penalty has been paid.

27 Sec. 3. NEW SECTION. 321A.32A CIVIL PENALTY --  
28 DISPOSITION -- REINSTATEMENT.

29 When the department receives a record of a person's  
30 conviction for a violation of section 321A.32, paragraph 1,  
31 the department shall assess the person a civil penalty of two  
32 hundred dollars. The money collected by the department under  
33 this section shall be transmitted to the treasurer of state  
34 who shall deposit one-half of the money in the separate fund  
35 established in section 912.14 and one-half of the money shall

1 be deposited in the general fund of the state. A temporary  
2 restricted license shall not be issued or a motor vehicle  
3 license or nonresident operating privilege reinstated until  
4 the civil penalty has been paid.

5 Sec. 4. Section 331.302, subsection 2, Code 1995, is  
6 amended to read as follows:

7 2. A county shall not provide a penalty in excess of a one  
8 hundred dollar fine or in excess of thirty days imprisonment  
9 for the violation of an ordinance. The criminal penalty  
10 surcharge required by section 911.2 and the prison and jail  
11 surcharge required by section 911A.2 shall be added to a  
12 county fine and ~~is~~ are not a part of the county's penalty.

13 Sec. 5. Section 364.3, subsection 2, Code 1995, is amended  
14 to read as follows:

15 2. A city shall not provide a penalty in excess of a one  
16 hundred dollar fine or in excess of thirty days imprisonment  
17 for the violation of an ordinance. An amount equal to ten  
18 percent of all fines collected by cities shall be deposited in  
19 the account established in section 602.8108. However, one  
20 hundred percent of all fines collected by a city pursuant to  
21 section 321.236, subsection 1, shall be retained by the city.  
22 The criminal penalty surcharge required by section 911.2 and  
23 the prison and jail surcharge required by section 911A.2 shall  
24 be added to a city fine and ~~is~~ are not a part of the city's  
25 penalty.

26 Sec. 6. Section 602.8107, subsection 2, paragraph b, Code  
27 1995, is amended to read as follows:

28 b. Fines or penalties and ~~criminal-penalty~~ surcharges.

29 Sec. 7. Section 602.8107, subsection 4, unnumbered  
30 paragraph 2, Code 1995, is amended to read as follows:

31 This subsection does not apply to amounts collected for  
32 victim restitution, the victim compensation fund, criminal  
33 penalty surcharge, prison and jail surcharge, or amounts  
34 collected as a result of procedures initiated under section  
35 421.17, subsection 25.

1 Sec. 8. Section 805.8, subsection 1, Code 1995, is amended  
2 to read as follows:

3 1. APPLICATION. Except as otherwise indicated, violations  
4 of sections of the Code specified in this section are  
5 scheduled violations, and the scheduled fine for each of those  
6 violations is as provided in this section, whether the  
7 violation is of state law or of a county or city ordinance.  
8 The criminal penalty surcharge required by section 911.2 and  
9 the prison and jail surcharge required by section 911A.2 shall  
10 be added to the scheduled fine.

11 Sec. 9. Section 805.8, subsection 11, unnumbered paragraph  
12 1, Code 1995, is amended to read as follows:

13 For violations of section 142B.6 or 453A.2, subsection 2,  
14 the scheduled fine is twenty-five dollars, and is a civil  
15 penalty, and the criminal penalty surcharge under section  
16 911.2 and the prison and jail surcharge under section 911A.2  
17 shall not be added to the penalty, and the court costs  
18 pursuant to section 805.9, subsection 6, shall not be imposed.  
19 If the civil penalty assessed for a violation of section  
20 142B.6 is not paid in a timely manner, a citation shall be  
21 issued for the violation in the manner provided in section  
22 804.1. However, a person under age eighteen shall not be  
23 detained in a secure facility for failure to pay the civil  
24 penalty. The complainant shall not be charged a filing fee.

25 Sec. 10. Section 902.9, unnumbered paragraph 2, Code 1995,  
26 is amended to read as follows:

27 The criminal penalty surcharge required by section 911.2  
28 and the prison and jail surcharge required by section 911A.2  
29 shall be added to a fine imposed on a class "C" or class "D"  
30 felon, as provided by ~~that-section~~ those sections, and ~~is~~ are  
31 not a part of or subject to the maximums set in this section.

32 Sec. 11. Section 903.1, subsection 4, Code 1995, is  
33 amended to read as follows:

34 4. The criminal penalty surcharge required by section  
35 911.2 and the prison and jail surcharge required by section

1 911A.2 shall be added to a fine imposed on a misdemeanor, and  
2 ~~is~~ are not a part of or subject to the maximums set in this  
3 section.

4 Sec. 12. NEW SECTION. 907.14 PAYMENT IN LIEU OF FINE.

5 When the court has deferred judgment the court may order  
6 the defendant to pay an amount in lieu of a fine. When the  
7 court has deferred judgment in a case where a minimum fine  
8 would otherwise be ordered, the court shall order the  
9 defendant to pay an amount in lieu of a fine. Payments in  
10 lieu of fines shall be ordered, enforced, and administered as  
11 fines under chapter 909.

12 Sec. 13. Section 909.8, Code 1995, is amended to read as  
13 follows:

14 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL  
15 PENALTY-SURCHARGE SURCHARGES.

16 The provisions of this chapter governing the payment and  
17 collection of a fine, except section 909.3A, also apply to the  
18 payment and collection of a criminal penalty surcharge imposed  
19 pursuant to chapter 911 and the prison and jail surcharge  
20 imposed pursuant to chapter 911A.

21 Sec. 14. Section 909.10, subsection 1, Code 1995, is  
22 amended to read as follows:

23 1. As used in this section, unless the context otherwise  
24 requires, "delinquent amounts" means a fine, court-imposed  
25 court costs in a criminal proceeding, ~~or~~ criminal surcharge  
26 imposed pursuant to section 911.2, or prison and jail  
27 surcharge imposed pursuant to section 911A.2, which remains  
28 unpaid after two years from the date that the fine, court  
29 costs, or surcharge was imposed, and which is not collected by  
30 the county attorney pursuant to section 602.8107. However, if  
31 the fine may be paid in installments pursuant to section  
32 909.3, the fine is not a delinquent amount unless the  
33 installment remains unpaid after two years from the date the  
34 installment was due.

35 Sec. 15. NEW SECTION. 911A.1 PRISON AND JAIL SURCHARGE

1 ESTABLISHED.

2 A prison and jail surcharge shall be levied against certain  
3 law violators as provided in section 911A.2. The surcharge  
4 shall be used as provided in section 911A.3.

5 Sec. 16. NEW SECTION. 911A.2 SURCHARGE.

6 When a court imposes a fine or forfeiture for a violation  
7 of a state law, or of a city or county ordinance except an  
8 ordinance regulating the parking of motor vehicles, the court  
9 shall assess an additional penalty in the form of a surcharge  
10 equal to ten dollars. In the event of multiple offenses, the  
11 surcharge shall be based upon the total number of offenses.  
12 When a fine or forfeiture is suspended in whole or in part,  
13 the surcharge shall not be reduced.

14 The surcharge is subject to the provisions of chapter 909  
15 governing the payment and collection of fines, as provided in  
16 section 909.8.

17 Sec. 17. NEW SECTION. 911A.3 DISPOSITION OF SURCHARGE.

18 When a court assesses a surcharge under section 911A.2,  
19 notwithstanding any other provision of the Code to the  
20 contrary, proceeds from the surcharge shall be appropriated  
21 and distributed as follows:

22 1. If the surcharge is assessed for a scheduled violation  
23 under section 805.8 and the citation was issued by a peace  
24 officer employed by the state, all of the surcharge shall be  
25 transferred to the general fund of the state.

26 2. If the surcharge is assessed for a scheduled violation  
27 under section 805.8 and the citation was issued by a peace  
28 officer employed by a political subdivision, the surcharge  
29 shall be disposed of in accordance with subsection 3,  
30 paragraphs "a" and "b".

31 3. If the surcharge is assessed for a violation other than  
32 a scheduled violation, the surcharge shall be disposed of as  
33 follows:

34 a. Five dollars of the surcharge shall be transferred to  
35 the general fund of the state.

1 b. Five dollars of the surcharge shall be transferred to  
2 the treasurer of the county in which the citation was issued  
3 to be deposited in the general fund of the county and used  
4 only for the expansion of the capacity of the county jail or  
5 the maintenance of county jail facilities.

6 EXPLANATION

7 The bill imposes a \$200 civil penalty when motor vehicle  
8 licenses are revoked for violations of chapter 321 or 321A  
9 (financial responsibility). Proceeds from the civil penalty  
10 are to be split equally between the crime victim compensation  
11 fund and the state general fund. The bill also provides that  
12 a payment in lieu of a fine may be assessed against a person  
13 who receives a deferred judgment in a case where a minimum  
14 fine would otherwise be ordered.

15 The bill also provides for the assessment of a \$10  
16 surcharge on fines and forfeitures imposed for the violation  
17 of state law or city or county ordinance. If the surcharge is  
18 imposed for a scheduled violation, the entire surcharge shall  
19 be allocated to the general fund of the state if the citation  
20 is issued by a peace officer employed by the state. If the  
21 citation is issued by a peace officer from a political  
22 subdivision or for nonscheduled violations, \$5 of the  
23 surcharge would be allocated to the general fund of the state  
24 and the other \$5 of the surcharge would be transferred to the  
25 county in which the citation was issued for use in financing  
26 the expansion of county jail facilities or the maintenance of  
27 existing jail facilities. The surcharge is not considered  
28 part of a city or county penalty for purposes of the maximum  
29 amount authorized cities and counties for penalties.

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**HOUSE FILE 516  
FISCAL NOTE**

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A fiscal note for House File 516 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 516 imposes a civil penalty when motor vehicle licenses are revoked for violations of Chapter 321 or 321A (financial responsibility). Proceeds from the civil penalty are to be split equally between the Crime Victim Compensation Fund and the General Fund. The bill also provides that a payment in lieu of a fine may be assessed against a person who receives a deferred judgement in a case where a minimum fine would otherwise be ordered.

Additionally, the bill provides for a \$10 surcharge on fines and forfeitures imposed for the violation of state law or local ordinance. When the citation is issued by a State peace officer for a scheduled violation, the surcharge is allocated to the Department of Corrections to be used in expanding prison and community-based corrections facilities. If the citation is issued by a peace officer from a political subdivision or if the offense is a nonscheduled violation, then \$5 of the surcharge is allocated to the Department of Corrections and \$5 is transferred to the county where the citation was issued to be used for jail expansion and maintenance.

**ASSUMPTIONS:**

1. There were 10,000 license reinstatements in FY 1994. It is likely that the only individuals from whom the \$200 civil penalty will be collected are those applying for reinstatement of a license.
2. There were 450,000 scheduled fines collected. Sixty percent will be issued by State peace officers.
3. There were 67,233 simple misdemeanors collected.
4. There were 4,430 felonies and indictable misdemeanors collected.
5. There were 53,733 city ordinance violations collected.

**FISCAL EFFECT:****Civil Penalties**

Based on the number of license reinstatements in FY 1994, the amount of funds that could have been collected in civil penalties would have been \$2,000,000. This would result in \$1,000,000 being deposited into both The General Fund and the Crime Victim Compensation Fund.

**Surcharge on Fines and Forfeitures**

The General Fund will receive \$3.7 million annually and the counties will receive \$2.0 million annually.

The Judicial Department will incur \$7,600 in expenses for conversions and

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enhancements to the Iowa Court Information System (ICIS).

Sources:

Judicial Department

Judicial Department, Department of Transportation

(LSB 1594hv, DFW)

FILED APRIL 12, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

HSB 290

Blodgett, Chair

Eddie

Warnstad

TRANSPORTATION

Succeeded By

SENATE/HOUSE FILE 516

BY (PROPOSED GOVERNOR'S BILL)

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

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

Approved \_\_\_\_\_

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14 Sec. 2. NEW SECTION. 321.561A CIVIL PENALTY --  
15 DISPOSITION -- REINSTATEMENT.

16 When the department receives a record of a person's  
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28 DISPOSITION -- REINSTATEMENT.

29 When the department receives a record of a person's  
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33 this section shall be transmitted to the treasurer of state  
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11 surcharge required by section 911A.2 shall be added to a  
12 county fine and ~~is~~ are not a part of the county's penalty.

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18 percent of all fines collected by cities shall be deposited in  
19 the account established in section 602.8108. However, one  
20 hundred percent of all fines collected by a city pursuant to  
21 section 321.236, subsection 1, shall be retained by the city.  
22 The criminal penalty surcharge required by section 911.2 and  
23 the prison and jail surcharge required by section 911A.2 shall  
24 be added to a city fine and ~~is~~ are not a part of the city's  
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27 1995, is amended to read as follows:

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33 penalty surcharge, prison and jail surcharge, or amounts  
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35 421.17, subsection 25.

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3 1. APPLICATION. Except as otherwise indicated, violations  
4 of sections of the Code specified in this section are  
5 scheduled violations, and the scheduled fine for each of those  
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7 violation is of state law or of a county or city ordinance.  
8 The criminal penalty surcharge required by section 911.2 and  
9 the prison and jail surcharge required by section 911A.2 shall  
10 be added to the scheduled fine.

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12 1, Code 1995, is amended to read as follows:

13 For violations of section 142B.6 or 453A.2, subsection 2,  
14 the scheduled fine is twenty-five dollars, and is a civil  
15 penalty, and the criminal penalty surcharge under section  
16 911.2 and the prison and jail surcharge under section 911A.2  
17 shall not be added to the penalty, and the court costs  
18 pursuant to section 805.9, subsection 6, shall not be imposed.  
19 If the civil penalty assessed for a violation of section  
20 142B.6 is not paid in a timely manner, a citation shall be  
21 issued for the violation in the manner provided in section  
22 804.1. However, a person under age eighteen shall not be  
23 detained in a secure facility for failure to pay the civil  
24 penalty. The complainant shall not be charged a filing fee.

25 Sec. 10. Section 902.9, unnumbered paragraph 2, Code 1995,  
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27 The criminal penalty surcharge required by section 911.2  
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29 shall be added to a fine imposed on a class "C" or class "D"  
30 felon, as provided by ~~that-section~~ those sections, and ~~is~~ are  
31 not a part of or subject to the maximums set in this section.

32 Sec. 11. Section 903.1, subsection 4, Code 1995, is  
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34 4. The criminal penalty surcharge required by section  
35 911.2 and the prison and jail surcharge required by section

1 911A.2 shall be added to a fine imposed on a misdemeanor, and  
2 ~~is~~ are not a part of or subject to the maximums set in this  
3 section.

4 Sec. 12. NEW SECTION. 907.14 PAYMENT IN LIEU OF FINE.

5 When the court has deferred judgment the court may order  
6 the defendant to pay an amount in lieu of a fine. When the  
7 court has deferred judgment in a case where a minimum fine  
8 would otherwise be ordered, the court shall order the  
9 defendant to pay an amount in lieu of a fine. Payments in  
10 lieu of fines shall be ordered, enforced, and administered as  
11 fines under chapter 909.

12 Sec. 13. Section 909.8, Code 1995, is amended to read as  
13 follows:

14 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL  
15 PENALTY-SURCHARGE SURCHARGES.

16 The provisions of this chapter governing the payment and  
17 collection of a fine, except section 909.3A, also apply to the  
18 payment and collection of a criminal penalty surcharge imposed  
19 pursuant to chapter 911 and the prison and jail surcharge  
20 imposed pursuant to chapter 911A.

21 Sec. 14. Section 909.10, subsection 1, Code 1995, is  
22 amended to read as follows:

23 1. As used in this section, unless the context otherwise  
24 requires, "delinquent amounts" means a fine, court-imposed  
25 court costs in a criminal proceeding, ~~or~~ criminal surcharge  
26 imposed pursuant to section 911.2, or prison and jail  
27 surcharge imposed pursuant to section 911A.2, which remains  
28 unpaid after two years from the date that the fine, court  
29 costs, or surcharge was imposed, and which is not collected by  
30 the county attorney pursuant to section 602.8107. However, if  
31 the fine may be paid in installments pursuant to section  
32 909.3, the fine is not a delinquent amount unless the  
33 installment remains unpaid after two years from the date the  
34 installment was due.

35 Sec. 15. NEW SECTION. 911A.1 PRISON AND JAIL SURCHARGE

1 ESTABLISHED.

2 A prison and jail surcharge shall be levied against certain  
3 law violators as provided in section 911A.2. The surcharge  
4 shall be used as provided in section 911A.3.

5 Sec. 16. NEW SECTION. 911A.2 SURCHARGE.

6 When a court imposes a fine or forfeiture for a violation  
7 of a state law, or of a city or county ordinance except an  
8 ordinance regulating the parking of motor vehicles, the court  
9 shall assess an additional penalty in the form of a surcharge  
10 equal to ten dollars. In the event of multiple offenses, the  
11 surcharge shall be based upon the total number of offenses.  
12 When a fine or forfeiture is suspended in whole or in part,  
13 the surcharge shall not be reduced.

14 The surcharge is subject to the provisions of chapter 909  
15 governing the payment and collection of fines, as provided in  
16 section 909.8.

17 Sec. 17. NEW SECTION. 911A.3 DISPOSITION OF SURCHARGE.

18 When a court assesses a surcharge under section 911A.2,  
19 notwithstanding any other provision of the Code to the  
20 contrary, proceeds from the surcharge shall be appropriated  
21 and distributed as follows:

22 1. If the surcharge is assessed for a scheduled violation  
23 under section 805.8 and the citation was issued by a peace  
24 officer employed by the state, all of the surcharge shall be  
25 transferred to the general fund of the state.

26 2. If the surcharge is assessed for a scheduled violation  
27 under section 805.8 and the citation was issued by a peace  
28 officer employed by a political subdivision, the surcharge  
29 shall be disposed of in accordance with subsection 3,  
30 paragraphs "a" and "b".

31 3. If the surcharge is assessed for a violation other than  
32 a scheduled violation, the surcharge shall be disposed of as  
33 follows:

34 a. Five dollars of the surcharge shall be transferred to  
35 the general fund of the state.

1 b. Five dollars of the surcharge shall be transferred to  
2 the treasurer of the county in which the citation was issued  
3 to be deposited in the general fund of the county and used  
4 only for the expansion of the capacity of the county jail or  
5 the maintenance of county jail facilities.

6 EXPLANATION

7 The bill imposes a \$200 civil penalty when motor vehicle  
8 licenses are revoked for violations of chapter 321 or 321A  
9 (financial responsibility). Proceeds from the civil penalty  
10 are to be split equally between the crime victim compensation  
11 fund and the state general fund. The bill also provides that  
12 a payment in lieu of a fine may be assessed against a person  
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23 surcharge would be allocated to the general fund of the state  
24 and the other \$5 of the surcharge would be transferred to the  
25 county in which the citation was issued for use in financing  
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29 amount authorized cities and counties for penalties.

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