

# House Study Bill 124

## Conference Committee Text

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1 1 Section 1. Section [321.1](#), subsection 11, Code 1995, is  
1 2 amended by adding the following new paragraph and relettering  
1 3 the remaining paragraphs:

1 4 NEW PARAGRAPH. d. "Commercial motor carrier" means a  
1 5 person responsible for the safe operation of a commercial  
1 6 motor vehicle.

1 7 Sec. 2. Section [321.12](#), unnumbered paragraph 2, Code 1995,  
1 8 is amended to read as follows:

1 9 The director shall destroy any operating records pertaining  
1 10 to arrests or convictions for operating while intoxicated, in  
1 11 violation of section 321J.2, which are more than twelve years  
1 12 old. The twelve-year period shall commence with the date of  
1 13 the arrest or conviction for the offense, whichever first  
1 14 occurs. However, the director shall not destroy operating  
1 15 records which pertain to arrests or convictions for operating  
1 16 while intoxicated after the expiration of twelve years when  
1 17 the motor vehicle being operated was a commercial motor  
1 18 vehicle or if all of the provisions of the court order have  
1 19 not been satisfied.

1 20 Sec. 3. Section [321.30](#), Code 1995, is amended by adding  
1 21 the following new subsection:

1 22 NEW SUBSECTION. 12. If a commercial motor vehicle has  
1 23 been assigned to be operated by a commercial motor carrier  
1 24 whose ability to operate has been terminated or denied by a  
1 25 federal agency.

1 26 Sec. 4. Section [321.101](#), Code 1995, is amended by adding  
1 27 the following new subsection:

1 28 NEW SUBSECTION. 8A. If a commercial motor vehicle has  
1 29 been assigned to be operated by a commercial motor carrier  
1 30 whose ability to operate has been terminated or denied by a  
1 31 federal agency.

1 32 Sec. 5. Section [321.208](#), Code 1995, is amended by adding  
1 33 the following new subsection:

1 34 NEW SUBSECTION. 5A. A person is disqualified from  
1 35 operating a commercial motor vehicle:

2 1 a. For ninety days upon conviction for the first violation  
2 2 of an out-of-service order; for one year, upon conviction for  
2 3 a second violation of an out-of-service order in separate  
2 4 incidents within a ten-year period; and for not less than  
2 5 three and not more than five years upon conviction for a third  
2 6 or subsequent violation of an out-of-service order in separate  
2 7 incidents within a ten-year period.

2 8 b. For one year upon conviction for the first violation  
2 9 and for not less than three years and not more than five years  
2 10 upon conviction for a second or subsequent violation of an  
2 11 out-of-service order while transporting hazardous materials  
2 12 required to be placarded, or while operating a commercial  
2 13 motor vehicle designed to transport more than fifteen  
2 14 passengers including the driver.

2 15 Sec. 6. Section [321.208A](#), Code 1995, is amended to read as  
2 16 follows:

2 17 [321.208A](#) TWENTY-FOUR HOUR OUT-OF-SERVICE ORDER.

2 18 A person required to hold a commercial driver's license to  
2 19 operate a commercial motor vehicle shall not operate a  
2 20 commercial motor vehicle on the highways of this state in  
2 21 violation of an out-of-service order issued by a peace officer

2 22 for a violation of the out-of-service rules adopted by the  
2 23 department. An employer shall not allow an employee to drive  
2 24 a commercial motor vehicle in violation of such out-of-service  
2 25 order. The department shall adopt out-of-service rules which  
2 26 shall be consistent with 49 C.F.R. } 392.5 adopted as of a  
2 27 specific date by the department. A person who violates this  
2 28 section shall be subject to a penalty of one hundred dollars.

2 29 Sec. 7. Section 321.213, Code 1995, is amended to read as  
2 30 follows:

2 31 321.213 LICENSE SUSPENSIONS OR REVOCATIONS DUE TO  
2 32 VIOLATIONS BY JUVENILE DRIVERS.

2 33 Upon the entering of an order at the conclusion of an  
2 34 adjudicatory hearing under section 232.47 that the child  
2 35 violated a provision of this chapter or chapter 124, 126,  
3 1 321A, 321J, or 453B for which the penalty is greater than a  
3 2 simple misdemeanor, the clerk of the juvenile court in the  
3 3 adjudicatory hearing shall forward a copy of the adjudication  
3 4 to the department. Notwithstanding section 232.55, a final  
3 5 adjudication in a juvenile court that the child violated a  
3 6 provision of this chapter

~~or section 124.401, 124.402,~~

3 7

~~124.403~~

~~-, chapter 124, a drug offense under section 126.3, or~~  
3 8 ~~chapter 321A, 321J, or 453B constitutes a final conviction~~

~~of~~

3 9

~~a violation of a provision of this chapter or section 124.401,~~

3 10

~~124.402, 124.403, a drug offense under section 126.3, or~~

3 11

~~chapter 321A, 321J, or 453B~~

~~for purposes of section 321.189,~~  
3 12 ~~subsection 8, paragraph "b", and sections 321.193, 321.194,~~  
3 13 ~~321.200, 321.209, 321.210, 321.215, 321.555, 321A.17, 321J.2,~~  
3 14 ~~321J.3, and 321J.4. However, suspensions for violations of~~  
3 15 ~~chapter 124, section 126.3, or chapter 453B shall be in~~  
3 16 ~~accordance with section 321.213A.~~

3 17 Sec. 8. Section 321.213A, Code 1995, is amended to read as  
3 18 follows:

3 19 321.213A LICENSE SUSPENSION FOR JUVENILES ADJUDICATED  
3 20 DELINQUENT FOR CERTAIN DRUG OR ALCOHOL OFFENSES.

3 21 Upon the entering of an order at the conclusion of a  
3 22 dispositional hearing under section 232.50, where the child  
3 23 has been adjudicated to have committed a delinquent act, which  
3 24 would be a first or subsequent violation of section 123.46,  
3 25 section 123.47 involving the purchase or attempt to purchase  
3 26 alcoholic beverages,

~~or~~

~~chapter 124, section 126.3, chapter~~  
3 27 ~~453B, or a second or subsequent violation of section 123.47~~  
3 28 ~~regarding the possession of alcoholic beverages, the clerk of~~  
3 29 ~~the juvenile court in the dispositional hearing shall forward~~  
3 30 ~~a copy of the adjudication and dispositional order to the~~  
3 31 ~~department. The department shall suspend the license or~~  
3 32 ~~operating privilege of the child for one year. The child may~~

3 33 receive a temporary restricted license as provided in section  
3 34 321.215.

3 35 Sec. 9. Section [321.215](#), subsections 1 and 2, Code 1995,  
4 1 are amended to read as follows:

4 2 1. The department, on application, may issue a temporary  
4 3 restricted license to a person whose motor vehicle license is  
4 4 suspended or revoked under this chapter, allowing the person  
4 5 to drive to and from the person's home and specified places at  
4 6 specified times which can be verified by the department and  
4 7 which are required by any of the following:

4 8 a. The person's full-time or part-time employment.

4 9 b. The person's continuing health care or the continuing  
4 10 health care of another who is dependent upon the person.

4 11 c. The person's continuing education while enrolled in an  
4 12 educational institution on a part-time or full-time basis and  
4 13 while pursuing a course of study leading to a diploma, degree,  
4 14 or other certification of successful educational completion.

4 15 d. The person's substance abuse treatment.

4 16 e. The person's court-ordered community service  
4 17 responsibilities.

4 18 However, a temporary restricted license shall not be issued  
4 19 to a person whose license is revoked under section [321.205](#) for  
4 20 a drug or drug-related offense or under section 321.209,  
4 21 subsections 1 through 5 or subsection 7 or 8 or to a juvenile  
4 22 whose license has been suspended under section 321.213A for a  
4 23 violation of chapter 124 or 453B, or section 126.3. A  
4 24 temporary restricted license may be issued to a person whose  
4 25 license is revoked under section 321.209, subsection 6, only  
4 26 if the person has no previous drag racing convictions. A  
4 27 person holding a temporary restricted license issued by the  
4 28 department under this section shall not operate a motor  
4 29 vehicle for pleasure.

4 30 2. Upon conviction and the suspension or revocation of a  
4 31 person's motor vehicle license under section [321.205](#) for a  
4 32 drug or drug-related offense; 321.209, subsection 5, 6, or 8;  
4 33 321.210; 321.210A; 321.513; or 321.555, subsection 2; or a  
4 34 juvenile, whose license has been suspended under section  
4 35 321.213A for a violation of chapter 124 or 453B, or section  
5 1 126.3, and upon the denial by the director of an application  
5 2 for a temporary restricted license, a person may apply to the  
5 3 district court having jurisdiction for the residence of the  
5 4 person for a temporary restricted permit to operate a motor  
5 5 vehicle for the limited purpose or purposes specified in  
5 6 subsection 1. The application may be granted only if all of  
5 7 the following criteria are satisfied:

5 8 a. The temporary restricted permit is requested only for a  
5 9 case of extreme hardship or compelling circumstances where  
5 10 alternative means of transportation do not exist.

5 11 b. The permit applicant has not made an application for a  
5 12 temporary restricted permit in any district court in the state  
5 13 which was denied.

5 14 c. The temporary restricted permit is restricted to the  
5 15 limited purpose or purposes specified in subsection 1 at times  
5 16 specified in the permit.

5 17 d. Proof of financial responsibility is established as  
5 18 defined in chapter 321A. However, such proof is not required  
5 19 if the motor vehicle license was suspended under section  
5 20 321.210A or 321.513 or revoked under section 321.209,  
5 21 subsection 8, or suspended or revoked under section 321.205  
5 22 for a drug or drug-related offense.

5 23 The district court shall forward a record of each  
5 24 application for such temporary restricted permit to the  
5 25 department, together with the results of the disposition of  
5 26 the request by the court. A temporary restricted permit is  
5 27 valid only if the department is in receipt of records required  
5 28 by this section.

5 29 Sec. 10. Section [321A.17](#), subsection 5, Code 1995, is

5 30 amended to read as follows:

5 31 5. An individual applying for a motor vehicle license  
5 32 following a period of suspension or revocation under section  
5 33 ~~321.205 for a drug or drug-related offense, section~~ 321.209,  
5 34 subsection 8, section 321.210, subsection 1, paragraph "d", or  
5 35 section 321.210A, ~~321.213A, 321.213B, 321.216B, or 321.513, or~~  
6 1 following a period of suspension under section 321.194, is not  
6 2 required to maintain proof of financial responsibility under  
6 3 this section.

6 4 Sec. 11. Section ~~321J.4~~, subsection 2, Code 1995, is  
6 5 amended to read as follows:

6 6 2. If the court defers judgment pursuant to section 907.3  
6 7 for a violation of section 321J.2, the

~~court shall order the~~

~~6 8 department~~

~~to~~

~~shall~~ revoke the defendant's motor vehicle

6 9 license or nonresident operating privilege for a period of not  
6 10 less than thirty days nor more than ninety days if the  
6 11 defendant's motor vehicle license or nonresident operating  
6 12 privilege has not been revoked under section 321J.9 or 321J.12  
6 13 or has not otherwise been revoked for the occurrence from  
6 14 which the arrest arose.

~~The court shall immediately require~~

~~6 15~~

~~the defendant to surrender to it all Iowa licenses or permits~~

~~6 16~~

~~held by the defendant, which the court shall forward to the~~

~~6 17~~

~~department with a copy of the order deferring judgment.~~

6 18

#### EXPLANATION

6 19 This bill defines the term "commercial motor carrier" to  
6 20 mean a person who is responsible for the safe operation of a  
6 21 commercial motor vehicle operated in interstate commerce. The  
6 22 bill allows for the department to refuse to issue a motor  
6 23 vehicle registration or certificate of title or to suspend or  
6 24 revoke the registration or certificate of title of a  
6 25 commercial motor vehicle operated by a commercial motor  
6 26 carrier whose ability to operate has been terminated or denied  
6 27 by a federal agency. A person is disqualified from operating  
6 28 a commercial motor vehicle for 90 days for the first violation  
6 29 of an out-of-service order, for one year for a second  
6 30 violation within 10 years, and for not less than three, and  
6 31 not more than five years, for a third subsequent violation  
6 32 within a 10-year period. In addition, a person who violates  
6 33 an out-of-service order while transporting hazardous materials  
6 34 required to be placarded or while operating a commercial motor  
6 35 vehicle designed to transport more than 15 passengers, is  
7 1 disqualified for one year for the first violation and for not  
7 2 less than three and not more than five for any subsequent  
7 3 violations. The bill also provides a \$100 fine for persons  
7 4 who violate an out-of-service order.

7 5 The bill prevents the state department of transportation  
7 6 from destroying operating records pertaining to arrests or  
7 7 convictions for operating while intoxicated in violation of  
7 8 section 321J.2 if all of the provisions of the court order

7 9 have not been satisfied. Currently, the department may  
7 10 destroy records which are more than 12 years old, unless the  
7 11 motor vehicle which was operated was a commercial motor  
7 12 vehicle.

7 13 Sections 321.213 and 321.213A are amended to provide that a  
7 14 juvenile's driver's license is suspended for a one-year period  
7 15 of time for violations of chapter 124, section 126.3, or  
7 16 chapter 453B. Section 321.215 prevents persons convicted of  
7 17 out-of-state drug and drug-related offenses under section  
7 18 321.205 and juveniles whose driver's licenses were suspended  
7 19 under section 321.213A for violations of chapter 124 or 453B,  
7 20 or section 126.3 from being issued a temporary restricted  
7 21 license. It does allow these persons to apply to the district  
7 22 court for a temporary restricted permit which may only be  
7 23 issued under certain circumstances. The bill provides that  
7 24 persons who are applying for a motor vehicle license following  
7 25 a period of suspension or revocation for violations under  
7 26 section 321.205 for out-of-state drug or drug-related offenses  
7 27 and juveniles whose driver's licenses are suspended under  
7 28 section 321.213A are not required to maintain proof of  
7 29 financial responsibility in order to have the driver's license  
7 30 reinstated.

7 31 Finally, the bill allows the department to revoke a  
7 32 driver's license without waiting for an order from the court  
7 33 in those cases where the driver submitted to a chemical test  
7 34 and passed the chemical test but was still found guilty of  
7 35 operating while intoxicated and granted a deferred judgment.

8 1 BACKGROUND STATEMENT  
8 2 SUBMITTED BY THE AGENCY

8 3 Section 1 defines the term "commercial motor carrier."  
8 4 Section 2 prevents the state department of transportation  
8 5 from destroying records pertaining to arrests or convictions  
8 6 for operating while intoxicated, in violation of section  
8 7 321J.2 if all of the provisions of the court order have not  
8 8 been satisfied. The department's records contain a large  
8 9 number of indefinite revocations ordered by the courts because  
8 10 the licensee has not satisfied requirements, for example,  
8 11 drinking drivers' school, evaluation, and treatment.  
8 12 According to the attorney general, the department is without  
8 13 authority to destroy these records until all provisions of the  
8 14 court order have been met.

8 15 Sections 3 through 6 comply with new federal regulations  
8 16 which require that certain disqualifications occur and  
8 17 sanctions be imposed to deter violations of out-of-service  
8 18 orders. Out-of-service orders are issued when significant  
8 19 safety violations occur, for example bad brakes and driving  
8 20 beyond the maximum time allowed. These sections address  
8 21 compliance with federal regulations and address significant  
8 22 safety concerns.

8 23 Sections 7 and 8 eliminate confusion regarding sanctions  
8 24 associated with juvenile alcohol and drug offenses which exist  
8 25 in the current law. Currently, section 321.213 provides for a  
8 26 one-year suspension, and section 321.209, subsection 8,  
8 27 provides for a six-month suspension for the same offense.  
8 28 This bill provides that the length of suspension is one year.

8 29 Current law allows for different sanctions for drug and  
8 30 drug-related offenses depending on whether the convictions  
8 31 occurred in Iowa or outside Iowa. For example, the department  
8 32 is allowed to issue a temporary restricted license for a drug  
8 33 offense if it occurred outside Iowa but not if the offense  
8 34 occurred in Iowa. Section 9 of this bill amends these  
8 35 sections to provide consistency, so that the department is not  
9 1 allowed to issue a temporary restricted license regardless of  
9 2 where the drug offense occurred, however, the bill allows for  
9 3 a temporary restricted license to be available by court order.

9 4 Section 10 provides consistency in treatment of license  
9 5 reinstatement for drug sanctions by requiring no future proof

9 6 of financial responsibility for license reinstatement prompted  
9 7 by drug sanctions.  
9 8 Section 11 amends section 321J.4 which ensures a driver's  
9 9 license is revoked in situations where the driver submitted to  
9 10 a chemical test and passed, but was still found to be guilty  
9 11 of operating while intoxicated and given a deferred judgment  
9 12 by providing that the department may revoke the driver's  
9 13 license without waiting for the court to issue an order.  
9 14 LSB 1165DP 76  
9 15 js/jj/8.1