

1-29-96 Judewitz

FILED JAN 29 1996

SENATE FILE 2092
BY PRIEBE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for an exemption for employers of persons
2 subject to the ignition interlock requirement and a
3 prohibition against termination of the person's employment due
4 to the ignition interlock requirement, and providing effective
5 dates.

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

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S.F. 2092

1 Section 1. Section 321J.4, subsection 7, Code Supplement
2 1995, is amended to read as follows:

3 7. a. On a conviction for or as a condition of a deferred
4 judgment for a violation of section 321J.2, the court may
5 order the defendant to install ignition interlock devices of a
6 type approved by the commissioner of public safety on all
7 motor vehicles owned or operated by the defendant which,
8 without tampering or the intervention of another person, would
9 prevent the defendant from operating the motor vehicle with an
10 alcohol concentration greater than a level set by rule of the
11 commissioner of public safety.

12 b. The commissioner of public safety shall adopt rules to
13 approve certain ignition interlock devices and the means of
14 installation of the devices, and shall establish the level of
15 alcohol concentration beyond which an ignition interlock
16 device will not allow operation of the motor vehicle in which
17 it is installed.

18 c. The order shall remain in effect for a period of time
19 as determined by the court which shall not exceed the maximum
20 term of imprisonment which the court could have imposed
21 according to the nature of the violation.

22 d. While the order is in effect, the defendant shall not
23 operate a motor vehicle which does not have an approved
24 ignition interlock device installed.

25 e. If the defendant's motor vehicle license or nonresident
26 operating privilege has been revoked, the department shall not
27 issue a temporary permit or a motor vehicle license to the
28 person without certification that approved ignition interlock
29 devices have been installed in all motor vehicles owned or
30 operated by the defendant while the order is in effect.

31 f. A defendant who fails within a reasonable time to
32 comply with an order to install an approved ignition interlock
33 device may be declared in contempt of court and punished
34 accordingly.

35 g. A person who tampers with or circumvents an ignition

1 interlock device installed under a court order while an order
2 is in effect commits a serious misdemeanor.

3 h. Notwithstanding the requirements of paragraphs "a"
4 through "f", a person whose employer has applied for and
5 obtained, pursuant to section 321J.20, an exemption from the
6 ignition interlock requirement may be issued a temporary
7 license and shall be permitted to operate, without penalty
8 under this subsection, the employer-owned vehicles subject to
9 the exemption, subject to the limitations and restrictions of
10 section 321J.20.

11 Sec. 2. Section 321J.4, subsection 8, Code Supplement
12 1995, is amended to read as follows:

13 8. a. A person whose motor vehicle license has either
14 been revoked under this chapter, or revoked or suspended under
15 chapter 321 solely for violations of this chapter, or who has
16 been determined to be a habitual offender under chapter 321
17 based solely on violations of this chapter, and who is not
18 eligible for a temporary restricted license under this chapter
19 may petition the court upon the expiration of the minimum
20 period of ineligibility for a temporary restricted license
21 provided for under this section or section 321J.9, 321J.12, or
22 321J.20 for an order to the department to require the
23 department to issue a temporary restricted license to the
24 person notwithstanding section 321.560.

25 b. Upon the filing of a petition for a temporary
26 restricted license under this section, the clerk of the
27 district court in the county where the violation that resulted
28 in the revocation occurred shall send notice of the petition
29 to the department and the prosecuting attorney. The
30 department and the prosecuting attorney shall each be given an
31 opportunity to respond to and request a hearing on the
32 petition.

33 c. The court shall determine if the temporary restricted
34 license is necessary for the person to maintain the person's
35 present employment. However, a temporary restricted license

1 shall not be ordered or issued for violations of section
2 321J.2A or to persons under the age of twenty-one who commit
3 violations under section 321J.2. If the court determines that
4 the temporary restricted license is necessary for the person
5 to maintain the person's present employment, and that the
6 minimum period of ineligibility for receipt of a temporary
7 license has expired, the court shall order the department to
8 issue to the person a temporary restricted license conditioned
9 upon the person's certification to the court of the
10 installation of approved ignition interlock devices in all
11 motor vehicles that it is necessary for the person to operate
12 to maintain the person's present employment. ~~Section-321-561~~
13 ~~does-not-apply-to-a-person-operating-a-motor-vehicle-in-the~~
14 ~~manner-permitted-under-this-subsection.~~

15 d. If the person operates a motor vehicle which does not
16 have an approved ignition interlock device or if the person
17 tampers with or circumvents an ignition interlock device, in
18 addition to other penalties provided, the person's temporary
19 restricted license shall be revoked.

20 e. Notwithstanding the requirements of this subsection:

21 (1) Section 321.561 does not apply to a person operating a
22 motor vehicle pursuant to a temporary restricted license
23 issued as a result of a court order under this subsection.

24 (2) A person whose employer has applied for and obtained,
25 pursuant to section 321J.20, an exemption from the ignition
26 interlock requirement may use without penalty under this
27 subsection a temporary license issued as a result of a court
28 order under this subsection and the employer-owned vehicles
29 subject to the exemption, subject to the prohibition in
30 paragraph "d" on tampering or circumventing the ignition
31 interlock device and to the limitations and restrictions of
32 section 321J.20.

33 (3) A person holding a temporary restricted license issued
34 under this subsection shall not operate a commercial motor
35 vehicle, as defined in section 321.1, on a highway if a

1 commercial driver's license is required for the person to
2 operate the commercial motor vehicle.

3 Sec. 3. Section 321J.20, subsection 6, Code Supplement
4 1995, is amended to read as follows:

5 6. Following the minimum period of ineligibility, a
6 temporary restricted license under this section shall not be
7 issued until such time as the applicant installs an ignition
8 interlock device of a type approved by the commissioner of
9 public safety on all motor vehicles owned or operated by the
10 applicant, in accordance with section 321J.4, subsection 7.

11 a. Installation of an ignition interlock device under this
12 section shall be required for the period of time for which the
13 temporary restricted license is issued, but no longer than one
14 year, unless the court order under section 321J.4, subsection
15 7, provides for a longer period of time.

16 b. An employer of a person who ordinarily operates
17 employer-owned vehicles in the course of employment and who is
18 subject to an ignition interlock requirement under this
19 section may apply for and obtain an exemption from the
20 department from the obligation to install an ignition
21 interlock device upon vehicles owned by the employer. The
22 exemption shall be granted if all of the following conditions
23 are met by the person subject to the ignition interlock
24 requirement:

25 (1) Verified full-time or part-time employment for the
26 employer seeking the exemption.

27 (2) Application has been made under subsection 1 for the
28 specific right to drive employer-owned vehicles in the course
29 of employment.

30 c. An exemption granted to an employer under paragraph "b"
31 shall be revoked by the department if the person subject to
32 the ignition interlock requirement performs any of the
33 following actions:

34 (1) Drives employer-owned vehicles other than in the
35 course of employment.

1 (2) Violates the restrictions of the temporary restricted
2 license.

3 (3) Violates the provisions of this section.

4 (4) Performs any action which results in revocation of the
5 temporary restricted license.

6 Sec. 4. RULEMAKING. Prior to January 1, 1997, the
7 department of transportation shall adopt rules related to the
8 administration of the exemption process for ignition interlock
9 devices, and shall develop and implement the use of forms
10 related to this exemption process.

11 Sec. 5. EFFECTIVE DATES.

12 1. Section 4 of this Act, being deemed of immediate
13 importance, takes effect upon enactment.

14 2. Sections 1 through 3 of this Act take effect January 1,
15 1997.

16 EXPLANATION

17 Sections 1 and 2 of this bill contain technical amendments
18 related to the availability of the employer exemption.

19 Section 3 of this bill adds an exemption process for
20 employers of persons subject to the requirement of installing
21 an ignition interlock device on all vehicles owned or operated
22 by that person, as a condition of that person obtaining a
23 temporary restricted license under section 321J.20. An
24 exemption granted to an employer under this Code section would
25 allow the employer to forgo installation of the ignition
26 interlock device on employer-owned vehicles operated by that
27 person, so long as certain specified conditions are met. In
28 addition, the bill contains a prohibition against termination
29 of the employment solely because of the court-ordered ignition
30 interlock requirement, and specifies the remedies for the
31 employee.

32 Finally, section 5 of the bill provides for an immediate
33 effective date for section 4, which directs the department of
34 transportation to implement rules and forms for the exemption
35 process prior to January 1, 1997. Section 5 provides that the

1 remainder of the bill takes effect January 1, 1997.

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