

JAN 31 1997
JUDICIARY

HOUSE FILE 135
BY BRUNKHORST

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

A BILL FOR

1 An Act relating to OWI violators subject to the ignition
2 interlock requirement who are granted a temporary restricted
3 license by providing for an exemption for employers of such
4 violators, and providing an effective date for rulemaking.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 135

1 Section 1. Section 321.561, Code 1997, is amended to read
2 as follows:

3 321.561 PUNISHMENT FOR VIOLATION.

4 It shall be unlawful for any person found to be a habitual
5 offender to operate any motor vehicle in this state during the
6 period of time specified in section 321.560 except for a
7 habitual offender who has been granted a temporary restricted
8 permit pursuant to section 321.215, subsection 2, or a
9 temporary restricted license pursuant to section 321J.4,
10 subsection 8. A person violating this section commits an
11 aggravated misdemeanor.

12 Sec. 2. Section 321J.4, subsections 7 and 8, Code 1997,
13 are amended to read as follows:

14 7. a. On a conviction for or as a condition of a deferred
15 judgment for a violation of section 321J.2, the court may
16 order the defendant to install ignition interlock devices of a
17 type approved by the commissioner of public safety on all
18 motor vehicles owned or operated by the defendant which,
19 without tampering or the intervention of another person, would
20 prevent the defendant from operating the motor vehicle with an
21 alcohol concentration greater than a level set by rule of the
22 commissioner of public safety.

23 b. The commissioner of public safety shall adopt rules to
24 approve certain ignition interlock devices and the means of
25 installation of the devices, and shall establish the level of
26 alcohol concentration beyond which an ignition interlock
27 device will not allow operation of the motor vehicle in which
28 it is installed.

29 c. The order shall remain in effect for a period of time
30 as determined by the court which shall not exceed the maximum
31 term of imprisonment which the court could have imposed
32 according to the nature of the violation.

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

1 e. If the defendant's motor vehicle license or nonresident
2 operating privilege has been revoked, the department shall not
3 issue a temporary permit or a motor vehicle license to the
4 person without certification that approved ignition interlock
5 devices have been installed in all motor vehicles owned or
6 operated by the defendant while the order is in effect.

7 f. A defendant who fails within a reasonable time to
8 comply with an order to install an approved ignition interlock
9 device may be declared in contempt of court and punished
10 accordingly.

11 g. A person who tampers with or circumvents an ignition
12 interlock device installed under a court order while an order
13 is in effect commits a serious misdemeanor.

14 h. Notwithstanding the requirements of paragraphs "a"
15 through "f", a person whose employer has applied for and
16 obtained, pursuant to section 321J.20, an exemption from the
17 ignition interlock requirement may be issued a temporary
18 restricted license and shall be permitted to operate, without
19 penalty under this subsection, the employer-owned vehicles
20 subject to the exemption, subject to the limitations and
21 restrictions of section 321J.20.

22 8. a. A person whose motor vehicle license has either
23 been revoked under this chapter, or revoked or suspended under
24 chapter 321 solely for violations of this chapter, or who has
25 been determined to be a habitual offender under chapter 321
26 based solely on violations of this chapter, and who is not
27 eligible for a temporary restricted license under this chapter
28 may petition the court upon the expiration of the minimum
29 period of ineligibility for a temporary restricted license
30 provided for under this section or section 321J.9, 321J.12, or
31 321J.20 for an order to the department to require the
32 department to issue a temporary restricted license to the
33 person notwithstanding section 321.560. The petition shall
34 include a current certified copy of the petitioner's official
35 driving record issued by the department.

1 b. Upon the filing of a petition for a temporary
2 restricted license under this section, the clerk of the
3 district court in the county where the violation that resulted
4 in the revocation occurred shall send notice of the petition
5 to the department and the prosecuting attorney. The
6 department and the prosecuting attorney shall each be given an
7 opportunity to respond to and request a hearing on the
8 petition.

9 c. The court shall determine if the temporary restricted
10 license is necessary for the person to maintain the person's
11 present employment. However, a temporary restricted license
12 shall not be ordered or issued for a violation of section
13 321J.2A or to a person under the age of twenty-one whose
14 license is revoked under this section or section 321J.9 or
15 321J.12. If the court determines that the temporary
16 restricted license is necessary for the person to maintain the
17 person's present employment, and that the minimum period of
18 ineligibility for receipt of a temporary license has expired,
19 the court shall order the department to issue to the person a
20 temporary restricted license conditioned upon the person's
21 certification to the court of the installation of approved
22 ignition interlock devices in all motor vehicles that it is
23 necessary for the person to operate to maintain the person's
24 present employment. ~~Section 321.561 does not apply to a~~
25 ~~person operating a motor vehicle in the manner permitted under~~
26 ~~this subsection.~~

27 d. If the person operates a motor vehicle which does not
28 have an approved ignition interlock device or if the person
29 tampers with or circumvents an ignition interlock device, in
30 addition to other penalties provided, the person's temporary
31 restricted license shall be revoked.

32 e. Notwithstanding the requirements of this subsection:

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

1 (2) A person whose employer has applied for and obtained,
2 pursuant to section 321J.20, an exemption from the ignition
3 interlock requirement may use without penalty under this
4 subsection a temporary restricted license issued as a result
5 of a court order under this subsection and the employer-owned
6 vehicles subject to the exemption, subject to the prohibition
7 in paragraph "d" on tampering or circumventing the ignition
8 interlock device and to the limitations and restrictions of
9 section 321J.20.

10 (3) A person holding a temporary restricted license issued
11 under this subsection shall not operate a commercial motor
12 vehicle, as defined in section 321.1, on a highway if a
13 commercial driver's license is required for the person to
14 operate the commercial motor vehicle.

15 Sec. 3. Section 321J.20, subsection 6, Code 1997, is
16 amended to read as follows:

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

23 a. Installation of an ignition interlock device under this
24 section shall be required for the period of time for which the
25 temporary restricted license is issued, but no longer than one
26 year, unless the court order under section 321J.4, subsection
27 7, provides for a longer period of time.

28 b. An employer of a person who ordinarily operates
29 employer-owned vehicles in the course of employment and who is
30 subject to an ignition interlock requirement under this
31 section may apply for and obtain an exemption from the
32 department from the obligation to install an ignition
33 interlock device upon vehicles owned by the employer. The
34 exemption shall be granted if all of the following conditions
35 are met by the person subject to the ignition interlock

1 requirement:

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

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

7 c. An exemption granted to an employer under paragraph "b"
8 shall be revoked by the department if the person subject to
9 the ignition interlock requirement performs any of the
10 following actions:

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

13 (2) Violates the restrictions of the temporary restricted
14 license.

15 (3) Violates the provisions of this section.

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

18 Sec. 4. RULEMAKING. Prior to July 1, 1997, the department
19 of transportation shall adopt rules related to the
20 administration of the exemption process for ignition interlock
21 devices, and shall develop and implement the use of forms
22 related to this exemption process.

23 Sec. 5. EFFECTIVE DATE. Section 4 of this Act, being
24 deemed of immediate importance, takes effect upon enactment.

25 EXPLANATION

26 This bill adds an exemption process to Code section 321J.20
27 for employers of persons subject to the requirement of
28 installing an ignition interlock device on all vehicles owned
29 or operated by that person, as a condition of that person
30 obtaining a temporary restricted license under section
31 321J.20. An exemption granted to an employer under this Code
32 section would allow the employer to forgo installation of the
33 ignition interlock device on employer-owned vehicles operated
34 by that person, so long as specified conditions are met.

35 This bill also contains amendments to Code section 321J.4

1 related to the availability of the employer exemption.

2 Finally, the bill provides for an immediate effective date
3 for rulemaking by the department of transportation to
4 implement the exemption process.

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