

REPRINTED

FEB 5 1998

Place On Calendar

HOUSE FILE 2163
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 531)

Passed House, ^(p. 224) Date 2-12-98 Passed Senate, Date _____
Vote: Ayes 98 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the reopening of an administrative hearing
2 pertaining to a license revocation for an operating while
3 intoxicated offense, and providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2163

REPRINTED

1 Section 1. Section 321J.13, Code Supplement 1997, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 6. a. The department shall grant a
4 request for a hearing to rescind the revocation if the person
5 whose motor vehicle license or operating privilege has been or
6 is being revoked under section 321J.9 or 321J.12 submits a
7 petition containing information relating to the discovery of
8 new evidence that provides grounds for rescision of the
9 revocation.

10 b. The person shall prevail at the hearing if, in the
11 criminal action on the charge of violation of section 321J.2
12 or 321J.2A resulting from the same circumstances that resulted
13 in the administrative revocation being challenged, the court
14 held one of the following:

15 (1) That the peace officer did not have reasonable grounds
16 to believe that a violation of section 321J.2 or 321J.2A had
17 occurred to support a request for or to administer a chemical
18 test.

19 (2) That the chemical test was otherwise inadmissible or
20 invalid.

21 c. Such a holding by the court in the criminal action is
22 binding on the department, and the department shall rescind
23 the revocation.

24 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
25 immediate importance, takes effect upon enactment.

26 EXPLANATION

27 This bill adds a subsection to Code section 321J.13, which
28 regulates administrative revocations of driver's licenses
29 under the chapter dealing with operating while intoxicated
30 violations. This subsection replaces a provision on reopening
31 revocation hearings that was completely struck in 1997
32 legislation.

33 The new subsection, like the subsection that was struck,
34 provides that a person may reopen a revocation hearing by
35 filing a petition stating that there is new evidence requiring

1 recision of the revocation. The person may prevail in the
2 hearing by showing that, in the criminal action resulting from
3 the same violation of Code chapter 321J that caused the
4 administrative revocation of the license, the court held that
5 the peace officer did not have reasonable grounds to request
6 or administer a chemical test, or that the chemical test was
7 otherwise inadmissible or invalid.

8 The bill takes effect upon enactment.

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HOUSE FILE 2163

H-8028

1 Amend House File 2163 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:4 "Section 101. Section 321A.17, subsection 5, Code
5 1997, is amended to read as follows:6 5. Notwithstanding the provision of subsections 1
7 through 4, the following individuals are not required
8 to maintain proof of financial liability under this
9 section:10 a. An individual applying for a motor vehicle
11 license following a period of suspension or revocation
12 pursuant to a dispositional order issued under section
13 232.52, subsection 2, paragraph "a" or under14 b. An individual applying for a motor vehicle
15 license following a period of suspension or revocation
16 pursuant to section 321.210, subsection 1, paragraph
17 "d", or section 321.210A, 321.213A, 321.213B,
18 321.216B, or 321.5137.19 c. An individual applying for a motor vehicle
20 license following a period of suspension under section
21 321.1947 or22 d. An individual applying for a motor vehicle
23 license following a period of revocation pursuant to a
24 court order issued under section 901.5, subsection 10,
25 or under section 321J.2A7 is not required to maintain
26 proof of financial responsibility under this section.27 e. An individual whose administrative revocation
28 is rescinded and who is otherwise under no obligation
29 to furnish proof of liability."30 2. Title page, by striking line 3 and inserting
31 the following: "intoxicated offense, prohibiting a
32 demand for proof of financial liability following the
33 rescision of an administrative revocation, and
34 providing an effective date."

35 3. By renumbering as necessary.

By KREIMAN of Davis
GREINER of Washington

H-8028 FILED FEBRUARY 10, 1998

Adopted 2-12-98 (p. 224)

HOUSE FILE 2163

H-8038

1 Amend the amendment, H-8028, to House File 2163, as
2 follows:3 1. Page 1, by striking lines 4 through 29, and
4 inserting the following:5 ""Section 1. Section 321A.17, Code 1997, is
6 amended by adding the following new subsection:7 NEW SUBSECTION. 7. This section shall not apply
8 to an individual whose administrative license
9 revocation has been rescinded, and who is otherwise
10 under no obligation to furnish proof of financial
11 responsibility."12 2. Page 1, line 32, by striking the word
13 "liability" and inserting the following:
14 "responsibility".By KREIMAN of Davis
GREINER of Washington

H-8038 FILED FEBRUARY 12, 1998

Adopted 2/12/98
p. 223

S- 2/12/98 Judiciary
S- 3/19/98 Amend/As Pass
W/S. 5292

~~3/2/98~~ UNFINISHED BUSINESS CALENDAR

HOUSE FILE 2163
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 531)

(As Amended and Passed by the House, February 12, 1998)

Passed House, ^(P.1422) Date 4/22/98 Passed Senate, ^(P.1338) Date 4-16-98
Vote: Ayes 99 Nays 0 Vote: Ayes 47 Nays 0
Approved _____

A BILL FOR

1 An Act relating to the reopening of an administrative hearing
2 pertaining to a license revocation for an operator while
3 administrated offense, prohibiting a demand for proof of
4 financial responsibility following the rescission of an
5 administrative revocation, and providing an effective date.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

New language...

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LEGISLATIVE COUNCIL

1 Section 1. Section 321A.17, Code 1997, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 7. This section shall not apply to an
4 individual whose administrative license revocation has been
5 rescinded, and who is otherwise under no obligation to furnish
6 proof of financial responsibility.

7 Sec. 2. Section 321J.13, Code Supplement 1997, is amended
8 by adding the following new subsection:

9 NEW SUBSECTION. 6. a. The department shall grant a
10 request for a hearing to rescind the revocation if the person
11 whose motor vehicle license or operating privilege has been or
12 is being revoked under section 321J.9 or 321J.12 submits a
13 petition containing information relating to the discovery of
14 new evidence that provides grounds for rescission of the
15 revocation.

16 b. The person shall prevail at the hearing if, in the
17 criminal action on the charge of violation of section 321J.2
18 or 321J.2A resulting from the same circumstances that resulted
19 in the administrative revocation being challenged, the court
20 held one of the following:

21 (1) That the peace officer did not have reasonable grounds
22 to believe that a violation of section 321J.2 or 321J.2A had
23 occurred to support a request for or to administer a chemical
24 test.

25 (2) That the chemical test was otherwise inadmissible or
26 invalid.

27 c. Such a holding by the court in the criminal action is
28 binding on the department, and the department shall rescind
29 the revocation.

30 Sec. 3. RETROACTIVE DATE. This act, being deemed of
31 immediate importance, takes effect upon enactment.

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HOUSE FILE 2163

S-5732

1 Amend the amendment, S-5292, to House File 2163, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by striking lines 3 through 18 and
5 inserting the following:

6 "____. Page 1, by striking lines 16 through 29 and
7 inserting the following:

8 "b. A person whose motor vehicle license or
9 operating privilege has been revoked under section
10 321J.12 after an administrative hearing under this
11 section, and who was subsequently acquitted of
12 operating while intoxicated in the criminal
13 proceedings arising from the same incident which led
14 to the revocation or had such criminal charges
15 dismissed, may petition the department within twenty
16 days of such acquittal or dismissal to reopen the
17 administrative hearing for the purpose of offering new
18 evidence that the person was not operating with an
19 alcohol concentration as defined in section 321J.1 of
20 .10 or more.

21 c. At a reopened hearing, all parties shall have
22 the opportunity to be present in person or via
23 telephonic transmission, and to present any evidence
24 and argument relevant to the question of whether the
25 person was operating with an alcohol concentration as
26 defined in section 321J.1 of .10 or more provided that
27 such evidence was not excluded in the criminal
28 proceeding.

29 d. If the person proves any of the following, the
30 revocation shall be rescinded:

31 (1) The chemical test that led to the revocation
32 was invalid.

33 (2) Based on evidence of errors of law, mistakes
34 of fact, or illegal or improper conduct occurring in
35 relation to the stop or the arrest, the results of the
36 chemical test that led to the revocation cannot be
37 reasonably relied upon.

38 e. Costs shall not be taxed to a prevailing party
39 at a reopened hearing."

(P.1338)

By ANDY MCKEAN

S-5732 FILED APRIL 16, 1998
ADOPTED

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2163

S-5824

1 Amend the amendment, H-9271, to House File 2163, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, lines 12 through 13, by striking the
5 words "within twenty days of such acquittal or
6 dismissal".

RECEIVED FROM THE HOUSE

S-5824 FILED APRIL 22, 1998

HOUSE FILE 2163

S-5292

- 1 Amend House File 2163, as passed by the House, as
2 follows:
3 1. Page 1, by striking lines 27 though 29, and
4 inserting the following:
5 "(3) That errors of law or mistakes of fact
6 otherwise occurred in the legal process relating to
7 the criminal charge under this chapter.
8 c. Notwithstanding paragraph "b", the department
9 need not rescind the revocation unless the court in
10 the criminal action also expressly holds that the
11 action resulting in the finding in paragraph "b",
12 subparagraph (1), (2), or (3), materially affected the
13 substantial rights of the person, such that the
14 administrative revocation should be rescinded.
15 d. Holdings by the court in the criminal action
16 that meet the requirements of paragraphs "b" and "c"
17 are binding on the department, and the department
18 shall rescind the revocation."
19 2. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
ANDY McKEAN, Chairperson

S-5292 FILED MARCH 19, 1998

Adopted
4-16-98
(P. 1338)

SENATE AMENDMENT TO HOUSE FILE 2163

H-9271

1 Amend House File 2163, as passed by the House, as
2 follows:

3 1. Page 1, by striking lines 16 through 29 and
4 inserting the following:

5 "b. A person whose motor vehicle license or
6 operating privilege has been revoked under section
7 321J.12 after an administrative hearing under this
8 section, and who was subsequently acquitted of
9 operating while intoxicated in the criminal
10 proceedings arising from the same incident which led
11 to the revocation or had such criminal charges
12 dismissed, may petition the department within twenty
13 days of such acquittal or dismissal to reopen the
14 administrative hearing for the purpose of offering new
15 evidence that the person was not operating with an
16 alcohol concentration as defined in section 321J.1 of
17 .10 or more.

18 c. At a reopened hearing, all parties shall have
19 the opportunity to be present in person or via
20 telephonic transmission, and to present any evidence
21 and argument relevant to the question of whether the
22 person was operating with an alcohol concentration as
23 defined in section 321J.1 of .10 or more provided that
24 such evidence was not excluded in the criminal
25 proceeding.

26 d. If the person proves any of the following, the
27 revocation shall be rescinded:

28 (1) The chemical test that led to the revocation
29 was invalid.

30 (2) Based on evidence of errors of law, mistakes
31 of fact, or illegal or improper conduct occurring in
32 relation to the stop or the arrest, the results of the
33 chemical test that led to the revocation cannot be
34 reasonably relied upon.

35 e. Costs shall not be taxed to a prevailing party
36 at a reopened hearing."

37 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-9271 FILED APRIL 17, 1998

House Concurred 4/22/98 (P.1922)

HOUSE FILE 2163

H-9330

1 Amend the amendment, H-9271, to House File 2163, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, lines 12 through 13, by striking the
5 words "within twenty days of such acquittal or
6 dismissal".

By LAMBERTI of Polk

H-9330 FILED APRIL 22, 1998

ADOPTED

(P.1922)

Lamberti, Chr
Churchill
Moreland

HSB 531

JUDICIARY
Succeeded By
SF (IF) 2163

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LAMBERTI)

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

A BILL FOR

1 An Act relating to the reopening of an administrative hearing
2 pertaining to a license revocation for an operating while
3 intoxicated offense, and providing an effective date.

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18 test.

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21 c. Such a holding by the court in the criminal action is
22 binding on the department, and the department shall rescind
23 the revocation.

24 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
25 immediate importance, takes effect upon enactment.

26 EXPLANATION

27 This bill adds a subsection to Code section 321J.13, which
28 regulates administrative revocations of driver's licenses
29 under the chapter dealing with operating while intoxicated
30 violations. This subsection replaces a provision on reopening
31 revocation hearings that was completely struck in 1997
32 legislation.

33 The new subsection, like the subsection that was struck,
34 provides that a person may reopen a revocation hearing by
35 filing a petition stating that there is new evidence requiring

1 recision of the revocation. The person may prevail in the
2 hearing by showing that, in the criminal action resulting from
3 the same violation of Code chapter 321J that caused the
4 administrative revocation of the license, the court held that
5 the peace officer did not have reasonable grounds to request
6 or administer a chemical test, or that the chemical test was
7 otherwise inadmissible or invalid.

8 The bill takes effect upon enactment.

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