

2/25/98 Do Pass

# REPRINTED

FEB 20 1998

TRANSPORTATION

HOUSE FILE 2394  
BY LARSON

Passed House, <sup>(p. 631)</sup> Date 3/11/98 Passed Senate, Date 3/26/98 <sup>p. 922</sup>  
 Vote: Ayes 96 Nays 0 Vote: Ayes 47 Nays 0  
 Approved April 13, 1994

## A BILL FOR

1 An Act providing for an immediate suspension of a driver's  
 2 license of a person charged with homicide by vehicle.  
 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 2394

1 Section 1. Section 321.206, Code 1997, is amended to read  
2 as follows:

3 321.206 SURRENDER OF LICENSE -- DUTY OF COURT.

4 1. If a person is convicted in court of an offense for  
5 which this chapter requires mandatory revocation of the  
6 person's motor vehicle license or, if the person's license is  
7 a commercial driver's license and the conviction disqualifies  
8 the person from operating a commercial motor vehicle, the  
9 court shall require the person to surrender the motor vehicle  
10 license held by the person and the court shall forward the  
11 license together with a record of the conviction to the  
12 department as provided in section 321.491.

13 2. If a person is charged with the offense of homicide by  
14 vehicle under section 707.6A, subsection 1, paragraph "b" or  
15 "c", the court shall order the person to surrender the motor  
16 vehicle license held by the person and the court shall forward  
17 the license together with a record of the charge to the  
18 department as provided in section 321.491.

19 Sec. 2. NEW SECTION. 321.210C VEHICULAR HOMICIDE  
20 SUSPENSION -- TERMINATION UPON REVOCATION OF LICENSE --  
21 REOPENING OF SUSPENSION.

22 1. Upon receiving a record from the court as provided in  
23 section 321.491 that an operator has been charged with  
24 homicide by vehicle under section 707.6A, subsection 1,  
25 paragraph "b" or "c", the department shall suspend the license  
26 of the operator upon twenty days' notice and without  
27 preliminary hearing.

28 2. a. The department shall grant a request for a hearing  
29 to rescind the suspension if the operator whose motor vehicle  
30 license or operating privilege has been or is being suspended  
31 provides grounds in the request for rescission of the suspension  
32 relating to any of the occurrences enumerated in paragraph  
33 "b", subparagraphs (1) through (4). The hearing shall be  
34 provided in accordance with section 321.211.

35 b. The person shall prevail at the hearing if, in relation

1 to the criminal action on the charge of violation of section  
2 707.6A, subsection 1, paragraph "b" or "c", based on the same  
3 circumstances that resulted in the suspension under subsection  
4 1, any of the following occurred:

5 (1) The court held that the peace officer did not have  
6 reasonable grounds to believe that the operator violated  
7 section 707.6A, subsection 1, paragraph "b" or "c".

8 (2) The person was acquitted of the charge.

9 (3) The person pleaded guilty to or was convicted of an  
10 offense that does not require a suspension or revocation of a  
11 motor vehicle license.

12 (4) The charge was dismissed.

13 c. Any of the occurrences in the criminal action  
14 enumerated in paragraph "b", subparagraphs (1) through (4) are  
15 binding on the department and the department shall rescind the  
16 suspension.

17 3. Upon receiving a record of conviction under section  
18 321.206, for a violation of section 707.6A, subsection 1,  
19 paragraph "b" or "c", and upon revocation of the person's  
20 license or operating privileges under section 321.209, the  
21 suspension under subsection 1 shall automatically terminate in  
22 favor of the revocation.

23 Sec. 3. Section 321.491, Code Supplement 1997, is amended  
24 to read as follows:

25 321.491 CONVICTIONS, CHARGES, AND RECOMMENDATIONS FOR  
26 SUSPENSION TO BE REPORTED.

27 1. Every district judge, district associate judge, and  
28 judicial magistrate shall keep a full record of every case in  
29 which a person is charged with any violation of this chapter  
30 or of any other law regulating the operation of vehicles on  
31 highways.

32 2. Within ten days after the charge of a person under  
33 section 707.6A, subsection 1, paragraph "b" or "c", the  
34 magistrate of the court or the clerk of the district court of  
35 record in which the charge occurred shall mail to the

1 department a certified copy of the complaint, information, or  
2 indictment charging the person with homicide by vehicle under  
3 section 707.6A, subsection 1, paragraph "b" or "c", and a copy  
4 of the order requiring the surrender of the person's motor  
5 vehicle license.

6 3. a. Within ten days after the conviction or forfeiture  
7 of bail of a person upon a charge of violating any provision  
8 of this chapter or other law regulating the operation of  
9 vehicles on highways every magistrate of the court or clerk of  
10 the district court of record in which the conviction occurred  
11 or bail was forfeited shall prepare and immediately forward to  
12 the department an abstract of the record of the case. The  
13 abstract must be certified by the person preparing it to be  
14 true and correct. The clerk of the district court shall  
15 collect a fee of fifty cents for each copy of any record of a  
16 charge, conviction, or forfeiture of bail furnished to any  
17 requestor except the department or other local, state, or  
18 federal government entity. Moneys collected under this  
19 section shall be transferred to the department as a repayment  
20 receipt, as defined in section 8.2, to enhance the efficiency  
21 of the department to process records and information between  
22 the department and the Iowa court information system.

23 b. The abstract must be made upon a form furnished by the  
24 department or by copying a uniform citation and complaint or  
25 by using an electronic process which accurately reproduces or  
26 forms a durable medium for accurately and legibly reproducing  
27 an unaltered image or reproduction of the citation, and must  
28 include the name and address of the party charged, the  
29 registration number of the vehicle involved, the nature of the  
30 offense, the date of hearing, the plea, the judgment, or  
31 whether the bail was forfeited, the amount of the fine or  
32 forfeiture, and any court recommendation, if any, that the  
33 person's motor vehicle license be suspended. The department  
34 shall consider and act upon the recommendation.

35 c. Every clerk of a court of record shall also forward a

1 like report to the department upon the conviction of any  
2 person of manslaughter or other felony in the commission of  
3 which a vehicle was used.

4 4. The failure, refusal, or neglect of an officer to  
5 comply with the requirements of this section shall constitute  
6 misconduct in office and shall be ground for removal from  
7 office.

8 5. All abstracts received by the department under this  
9 section shall be open to public inspection during reasonable  
10 business hours.

11 Sec. 4. Section 321A.17, Code 1997, is amended by adding  
12 the following new subsection:

13 NEW SUBSECTION. 7. This section does not apply to an  
14 individual whose administrative license suspension under  
15 section 321.210C has been rescinded and who is otherwise under  
16 no obligation to furnish proof of financial responsibility.

17 EXPLANATION

18 This bill provides that an operator of a motor vehicle who  
19 causes the death of another while driving recklessly or  
20 attempting to elude a pursuing law enforcement vehicle loses  
21 the operator's license when the operator is charged with  
22 homicide by vehicle. The bill requires the clerk of court to  
23 notify the department of the suspension. Current law provides  
24 for revocation of a motor vehicle license when a conviction  
25 for homicide by vehicle is entered against the operator. The  
26 bill provides for a license suspension while prosecution of  
27 the operator is pending.

28 If the operator is convicted of homicide by vehicle, the  
29 operator's license is revoked. The bill establishes that if  
30 charges are dismissed or if the operator is found not guilty  
31 or pleads to a lesser offense the operator has the right to  
32 request a hearing from the department of transportation for  
33 operator license reinstatement. In addition, the operator,  
34 upon dismissal, acquittal, or plea to a lesser offense, shall  
35 not be obligated to carry high-risk insurance.

HOUSE FILE 2394

H-8324

1 Amend House File 2394 as follows:

2 1. Page 4, by inserting after line 16 the  
3 following:

4 "Sec. \_\_\_\_ . Section 902.12, Code 1997, is amended  
5 by adding the following new unnumbered paragraph:

6 NEW UNNUMBERED PARAGRAPH. Except as otherwise  
7 provided in section 903A.2, a person serving a  
8 sentence for conviction under section 707.6A,  
9 subsection 1, shall serve one hundred percent of the  
10 maximum term of the person's sentence and shall not be  
11 released on parole or work release, if the person was  
12 also convicted under section 321.261, subsection 3,  
13 based on the same facts or event that resulted in the  
14 conviction under section 707.6A, subsection 1."

15 2. Title page, line 1, by inserting after the  
16 words "providing for" the following: "service of one  
17 hundred percent of the maximum sentence by and".

By CHIODO of Polk

H-8324 FILED MARCH 11, 1998

*o/order 3-11-98*

*(P.631)*

HOUSE FILE 2394

H-8279

1 Amend House File 2394 as follows:

2 1. Page 1, by striking lines 15 and 16 and

3 inserting the following: "c", the court at the  
4 initial appearance shall issue immediate notice of  
5 intention to suspend to the person who is charged.

6 The court shall order the person to surrender the  
7 motor vehicle license or permit, if any, and issue a  
8 temporary license effective for ten days. The  
9 effective date of the suspension shall be ten days  
10 after the issuance of the order as provided in section  
11 321.210C. The court shall forward".

12 2. Page 1, by striking lines 22 through 27, and  
13 inserting the following:

14 "1. The department is authorized to adopt rules  
15 relating to the suspension of the license of an  
16 operator who has been charged with homicide by vehicle  
17 under section 707.6A, subsection 1, paragraph "b" or  
18 "c", after receipt by the department of a record from  
19 the court under section 321.491. The effective date  
20 of a suspension shall be ten days after the issuance  
21 of an order pursuant to section 321.206, subsection  
22 2."

23 3. Page 3, line 4, by inserting after the word  
24 "order" the following: "issuing a temporary license  
25 and".

By HUSER of Polk  
LARSON of Linn

H-8279 FILED MARCH 10, 1998

*o/depted*

*3/11/98 (P.631)*

## HOUSE FILE 2394

H-8333

1 Amend the amendment, H-8279, to House File 2394, as  
2 follows:

3 1. Page 1, by striking lines 2 through 25 and  
4 inserting the following:

5 "\_\_\_\_. Page 1, by striking lines 1 through 18.

6 \_\_\_\_\_. Page 1, by inserting after line 21 the  
7 following:

8 "1. If a trial information or indictment is filed  
9 charging a person with the offense of homicide by  
10 vehicle under section 707.6A, subsection 1, and the  
11 person's license has not previously been suspended  
12 under chapter 321J, or under section 707.6A,  
13 subsection 2, the clerk of the district court shall,  
14 upon the filing of the information or indictment,  
15 forward notice to the department including the name  
16 and address of the party charged, the registration  
17 number of the vehicle involved, the nature of the  
18 offense, and the date of the filing of the indictment  
19 or information."

20 \_\_\_\_\_. By striking page 1, line 22, through page 2,  
21 line 16 and inserting the following:

22 "2. Upon receiving notice from the clerk of the  
23 district court that an indictment or information has  
24 been filed charging an operator with homicide by  
25 vehicle under section 707.6A, subsection 1 or 2, the  
26 department shall notify the person that the person's  
27 motor vehicle license will be suspended effective ten  
28 days from the date of issuance of the notice. The  
29 department shall adopt rules relating to the  
30 suspension of the license of an operator pursuant to  
31 this section which shall include, but are not limited  
32 to, procedures for the surrender of the person's  
33 license to the department upon the effective date of  
34 the suspension.

35 3. If a person whose motor vehicle license has  
36 been suspended pursuant to this section is not  
37 convicted of the charge of homicide by vehicle under  
38 section 707.6A, subsection 1 or 2, upon record entry  
39 of disposition of the charge, the clerk of the  
40 district court shall forward a notice including the  
41 name and address of the party charged, the  
42 registration number of the vehicle involved, the  
43 nature of the offense charged by indictment or  
44 information, the date of the filing of the indictment  
45 or information, and of the disposition of the charge  
46 to the department. Upon receipt of the notice from  
47 the clerk, the department shall automatically rescind  
48 the suspension and reinstate the person's motor  
49 vehicle license without payment of any charge or  
50 penalty."

H-8333

H-8333

Page 2

- 1 \_\_\_\_\_. Page 2, line 17, by striking the figure "3."  
2 and inserting the following: "4."  
3 \_\_\_\_\_. Page 2, lines 18 and 19, by striking the  
4 words and figures "1, paragraph "b" or "c" and  
5 inserting the following: "1 or 2".  
6 \_\_\_\_\_. Page 2, line 21, by striking the figure "1"  
7 and inserting the following: "2".  
8 \_\_\_\_\_. By striking page 2, line 23, through page 4,  
9 line 10.  
10 \_\_\_\_\_. Page 4, by inserting after line 16 the  
11 following:  
12 "Sec. \_\_\_\_\_. Section 902.12, Code 1997, is amended  
13 by adding the following new unnumbered paragraph:  
14 NEW UNNUMBERED PARAGRAPH. Except as otherwise  
15 provided in section 903A.2, a person serving a  
16 sentence for conviction under section 707.6A,  
17 subsection 1 or 2, shall serve one hundred percent of  
18 the maximum term of the person's sentence and shall  
19 not be released on parole or work release, if the  
20 person was also convicted under section 321.261,  
21 subsection 3, based on the same facts or event that  
22 resulted in the conviction under section 707.6A,  
23 subsection 1 or 2."  
24 \_\_\_\_\_. Title page, line 1, by striking the words  
25 "an immediate" and inserting the following: "service  
26 of one hundred percent of the maximum sentence by and  
27 the".  
28 \_\_\_\_\_. By numbering and renumbering as necessary."

By LARSON of Linn  
HUSER of Polk

KREIMAN of Davis  
CHIODO of Polk

H-8333 FILED MARCH 11, 1998

*Adopted*  
*3-11-98*  
*(p. 631)*



S-3/17/98 Amend/As Luce W/  
S-5268

5.3/26/98 UNFINISHED BUSINESS CALENDAR

HOUSE FILE 2394  
BY LARSON

(As Amended and Passed by the House, March 11, 1998)

(p. 1264) Passed House, Date 4/3/98 Passed Senate, Date 3/26/98  
Vote: Ayes 94 Nays 1 Vote: Ayes 47 Nays 0  
Approved April 13, 1998

Passed 4-8-98  
Vote 36-14 (p. 1144)

A BILL FOR

1 An Act providing for service of one hundred percent of the  
2 maximum sentence by and the suspension of a driver's license  
3 of a person charged with homicide by vehicle.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

New Language \_\_\_\_\_

Deleted Language \*

\*  
PACM31A3

1 Section 1. NEW SECTION. 321.210C VEHICULAR HOMICIDE  
2 SUSPENSION -- TERMINATION UPON REVOCATION OF LICENSE --  
3 REOPENING OF SUSPENSION.

4 1. If a trial information or indictment is filed charging  
5 a person with the offense of homicide by vehicle under section  
6 707.6A, subsection 1, and the person's license has not  
7 previously been suspended under chapter 321J, or under section  
8 707.6A, subsection 2, the clerk of the district court shall,  
9 upon the filing of the information or indictment, forward  
10 notice to the department including the name and address of the  
11 party charged, the registration number of the vehicle  
12 involved, the nature of the offense, and the date of the  
13 filing of the indictment or information.

14 2. Upon receiving notice from the clerk of the district  
15 court that an indictment or information has been filed  
16 charging an operator with homicide by vehicle under section  
17 707.6A, subsection 1 or 2, the department shall notify the  
18 person that the person's motor vehicle license will be  
19 suspended effective ten days from the date of issuance of the  
20 notice. The department shall adopt rules relating to the  
21 suspension of the license of an operator pursuant to this  
22 section which shall include, but are not limited to,  
23 procedures for the surrender of the person's license to the  
24 department upon the effective date of the suspension.

25 3. If a person whose motor vehicle license has been  
26 suspended pursuant to this section is not convicted of the  
27 charge of homicide by vehicle under section 707.6A, subsection  
28 1 or 2, upon record entry of disposition of the charge, the  
29 clerk of the district court shall forward a notice including  
30 the name and address of the party charged, the registration  
31 number of the vehicle involved, the nature of the offense  
32 charged by indictment or information, the date of the filing  
33 of the indictment or information, and of the disposition of  
34 the charge to the department. Upon receipt of the notice from  
35 the clerk, the department shall automatically rescind the

1 suspension and reinstate the person's motor vehicle license  
2 without payment of any charge or penalty.

3 4. Upon receiving a record of conviction under section  
4 321.206, for a violation of section 707.6A, subsection 1 or 2,  
5 and upon revocation of the person's license or operating  
6 privileges under section 321.209, the suspension under  
7 subsection 2 shall automatically terminate in favor of the  
8 revocation.

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

11 NEW SUBSECTION. 7. This section does not apply to an  
12 individual whose administrative license suspension under  
13 section 321.210C has been rescinded and who is otherwise under  
14 no obligation to furnish proof of financial responsibility.

15 Sec. 3. Section 902.12, Code 1997, is amended by adding  
16 the following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. Except as otherwise provided in  
18 section 903A.2, a person serving a sentence for conviction  
19 under section 707.6A, subsection 1 or 2, shall serve one  
20 hundred percent of the maximum term of the person's sentence  
21 and shall not be released on parole or work release, if the  
22 person was also convicted under section 321.261, subsection 3,  
23 based on the same facts or event that resulted in the  
24 conviction under section 707.6A, subsection 1 or 2.

25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

SENATE AMENDMENT TO HOUSE FILE 2394

H-8735

1 Amend House File 2394, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 1, by striking lines 6 through 8 and  
4 inserting the following: "707.6A, subsection 1 or 2,  
5 the clerk of the district court shall,".  
6 2. Page 1, line 12, by inserting after the word  
7 "involved," the following: "if known,".  
8 3. Page 1, line 17, by striking the words and  
9 figures "subsection 1 or 2" and inserting the  
10 following: "subsection 1, and if the person's license  
11 has not previously been suspended under chapter 321J,  
12 or under section 707.6A, subsection 2".

RECEIVED FROM THE SENATE

H-8735 FILED MARCH 26, 1998

*House Concurred 4/3/98 (p.1263)*

HOUSE FILE 2394

S-5268

1 Amend House File 2394, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 1, by striking lines 6 through 8 and  
4 inserting the following: "707.6A, subsection 1 or 2,  
5 the clerk of the district court shall,".  
6 2. Page 1, line 12, by inserting after the word  
7 "involved," the following: "if known,".  
8 3. Page 1, line 17, by striking the words and  
9 figures "subsection 1 or 2" and inserting the  
10 following: "subsection 1, and if the person's license  
11 has not previously been suspended under chapter 321J,  
12 or under section 707.6A, subsection 2".

By COMMITTEE ON TRANSPORTATION  
RICHARD F. DRAKE, Chairperson

*Adopted 3/26/98 (p.92)*

S-5268 FILED MARCH 17, 1998

HOUSE FILE 2394

AN ACT

PROVIDING FOR SERVICE OF ONE HUNDRED PERCENT OF THE MAXIMUM SENTENCE BY AND THE SUSPENSION OF A DRIVER'S LICENSE OF A PERSON CHARGED WITH HOMICIDE BY VEHICLE.

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

Section 1. NEW SECTION. 321.210C VEHICULAR HOMICIDE SUSPENSION -- TERMINATION UPON REVOCATION OF LICENSE -- REOPENING OF SUSPENSION.

1. If a trial information or indictment is filed charging a person with the offense of homicide by vehicle under section 707.6A, subsection 1 or 2, the clerk of the district court shall, upon the filing of the information or indictment, forward notice to the department including the name and address of the party charged, the registration number of the vehicle involved, if known, the nature of the offense, and the date of the filing of the indictment or information.

2. Upon receiving notice from the clerk of the district court that an indictment or information has been filed charging an operator with homicide by vehicle under section 707.6A, subsection 1, and if the person's license has not previously been suspended under chapter 321J, or under section 707.6A, subsection 2, the department shall notify the person that the person's motor vehicle license will be suspended effective ten days from the date of issuance of the notice. The department shall adopt rules relating to the suspension of the license of an operator pursuant to this section which shall include, but are not limited to, procedures for the

surrender of the person's license to the department upon the effective date of the suspension.

3. If a person whose motor vehicle license has been suspended pursuant to this section is not convicted of the charge of homicide by vehicle under section 707.6A, subsection 1 or 2, upon record entry of disposition of the charge, the clerk of the district court shall forward a notice including the name and address of the party charged, the registration number of the vehicle involved, the nature of the offense charged by indictment or information, the date of the filing of the indictment or information, and of the disposition of the charge to the department. Upon receipt of the notice from the clerk, the department shall automatically rescind the suspension and reinstate the person's motor vehicle license without payment of any charge or penalty.

4. Upon receiving a record of conviction under section 321.206, for a violation of section 707.6A, subsection 1 or 2, and upon revocation of the person's license or operating privileges under section 321.209, the suspension under subsection 2 shall automatically terminate in favor of the revocation.

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

NEW SUBSECTION. 7. This section does not apply to an individual whose administrative license suspension under section 321.210C has been rescinded and who is otherwise under no obligation to furnish proof of financial responsibility.

Sec. 3. Section 902.12, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Except as otherwise provided in section 903A.2, a person serving a sentence for conviction under section 707.6A, subsection 1 or 2, shall serve one hundred percent of the maximum term of the person's sentence and shall not be released on parole or work release, if the person was also convicted under section 321.261, subsection 3,

based on the same facts or event that resulted in the conviction under section 707.6A, subsection 1 or 2.

---

RON J. CORBETT  
Speaker of the House

---

MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2394, Seventy-seventh General Assembly.

---

ELIZABETH ISAACSON  
Chief Clerk of the House

Approved April 13, 1998

---

TERRY E. BRANSTAD  
Governor