

FEB 14 1937

JUDICIARY

HOUSE FILE 247
BY KREIMAN

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

A BILL FOR

1 An Act requiring persons convicted of operating a motor vehicle
2 while intoxicated to perform community service.

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

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HF 247

1 Section 1. Section 321J.2, subsection 2, Code 1997, is
2 amended to read as follows:

3 2. A person who violates this section commits:

4 a. A serious misdemeanor for the first offense, and shall
5 be imprisoned in the county jail for not less than forty-eight
6 hours to be served as ordered by the court, less credit for
7 any time the person was confined in a jail or detention
8 facility following arrest, and assessed a fine of not less
9 than five hundred dollars nor more than one thousand dollars.
10 As an alternative to a portion or all of the fine, the court
11 may order the person to perform not more than two hundred
12 hours of unpaid community service. The court may accommodate
13 the sentence to the work schedule of the defendant.

14 b. An aggravated misdemeanor for a second offense, and
15 shall be imprisoned in the county jail or community-based
16 correctional facility not less than seven days, which minimum
17 term cannot be suspended notwithstanding section 901.5,
18 subsection 3 and section 907.3, subsection 3, and assessed a
19 fine of not less than seven hundred fifty dollars.

20 c. A class "D" felony for a third offense and each
21 subsequent offense, and shall be imprisoned in the county jail
22 for a determinate sentence of not more than one year but not
23 less than thirty days, or committed to the custody of the
24 director of the department of corrections, and assessed a fine
25 of not less than seven hundred fifty dollars. The minimum
26 jail term of thirty days cannot be suspended notwithstanding
27 section 901.5, subsection 3, and section 907.3, subsection 3,
28 however, the person sentenced shall receive credit for any
29 time the person was confined in a jail or detention facility
30 following arrest. If a person is committed to the custody of
31 the director of the department of corrections pursuant to this
32 paragraph and the sentence is suspended, the sentencing court
33 shall order that the offender serve the thirty-day minimum
34 term in the county jail. If the sentence which commits the
35 person to the custody of the director of the department of

1 corrections is later imposed by the court, all time served in
2 a county jail toward the thirty-day minimum term shall count
3 as time served toward the sentence which committed the person
4 to the custody of the director of the department of
5 corrections.

6 2A. a. In addition to any penalties imposed under
7 subsection 2, the court shall order a defendant to perform
8 community service as follows:

9 (1) A person convicted of a first offense under subsection
10 2 shall be ordered to perform one hundred sixty hours of
11 community service.

12 (2) A person convicted of a second or subsequent offense
13 shall be ordered to perform three hundred twenty hours of
14 community service.

15 Notwithstanding section 901.5 and section 907.3, community
16 service ordered under this section shall not be deferred or
17 suspended.

18 b. A person convicted of a second or subsequent offense
19 shall be ordered to undergo a substance abuse evaluation prior
20 to sentencing. If a person is convicted of a third or
21 subsequent offense or if the evaluation recommends treatment,
22 the offender may be committed to the custody of the director
23 of the department of corrections, who, if the sentence is not
24 suspended, shall assign the person to a facility pursuant to
25 section 904.513 or the offender may be committed to treatment
26 in the community under the provisions of section 907.6.

27 c. A minimum term of imprisonment in a county jail or
28 community-based correctional facility imposed on a person
29 convicted of a second or subsequent offense under subsection
30 2, paragraph "b" or "c", shall be served on consecutive days.
31 However, if the sentencing court finds that service of the
32 full minimum term on consecutive days would work an undue
33 hardship on the person, or finds that sufficient jail space is
34 not available and is not reasonably expected to become
35 available within four months after sentencing to incarcerate

1 the person serving the minimum sentence on consecutive days,
 2 the court may order the person to serve not less than forty-
 3 eight consecutive hours of the minimum term and to perform a
 4 specified number of hours of unpaid community service as
 5 deemed appropriate by the sentencing court.

6 EXPLANATION

7 This bill amends Code section 321J.2 to provide that all
 8 persons convicted of operating a motor vehicle while
 9 intoxicated shall be ordered to perform community service.

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