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JUDICIARY

HOUSE FILE **345**  
BY CARROLL

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to penalties and license revocation periods for  
2 drivers under the age of twenty-one with an alcohol  
3 concentration of .02 or more.

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

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**#F 345**

1 Section 1. Section 321.12, unnumbered paragraph 3, Code  
2 1997, is amended to read as follows:

3 The director shall not destroy any operating records  
4 pertaining to revocations for violations of section 321J.2A  
5 ~~which are more than twelve years old. The twelve-year period~~  
6 ~~shall commence with the date the revocation of the person's~~  
7 ~~operating privileges becomes effective. This paragraph shall~~  
8 ~~not apply to records of revocations which pertain to~~  
9 ~~violations of section 321J.2A by persons operating a~~  
10 ~~commercial motor vehicle.~~

11 Sec. 2. Section 321.561, Code 1997, is amended to read as  
12 follows:

13 321.561 PUNISHMENT FOR VIOLATION.

14 It shall be unlawful for any person found to be a habitual  
15 offender to operate any motor vehicle in this state during the  
16 period of time specified in section 321.560 except for a  
17 habitual offender who has been granted a temporary restricted  
18 permit pursuant to section 321.215, subsection 2, or section  
19 321J.4, subsection 8. A person violating this section commits  
20 an aggravated misdemeanor.

21 Sec. 3. Section 321J.2A, Code 1997, is amended to read as  
22 follows:

23 321J.2A PERSONS UNDER THE AGE OF TWENTY-ONE.

24 1. A person who is under the age of twenty-one shall not  
25 operate a motor vehicle while having an alcohol concentration  
26 ~~as defined under section 321J.17~~ of .02 or more. The

27 2. A person who violates subsection 1 and section 321J.2  
28 shall be sentenced according to section 321J.2.

29 3. When the results of a chemical test taken pursuant to  
30 section 321J.6 indicate an alcohol concentration in violation  
31 of this section, the motor vehicle license or nonresident  
32 operating privilege of a person ~~who is under the age of~~  
33 ~~twenty-one and who operates a motor vehicle while having an~~  
34 ~~alcohol concentration of .02 or more~~ who violates subsection 1  
35 shall be revoked by the department ~~for the period of time~~

1 specified under section 321J.12, or otherwise by a court  
2 adjudicating the resulting criminal charges, if any, as  
3 follows:

4 a. For a first offense under this section, the period of  
5 revocation shall be:

6 (1) Sixty days, if the alcohol concentration is in  
7 violation of this section, but less than the amount prohibited  
8 by section 321J.2.

9 (2) One hundred eighty days, if the alcohol concentration  
10 is equal to or in excess of the amount prohibited by section  
11 321J.2.

12 b. For a second or subsequent offense under this section,  
13 the period of revocation shall be:

14 (1) Ninety days, if the previous revocation under this  
15 subsection was made under paragraph "a", subparagraph (1), and  
16 if the alcohol concentration for the present offense is in  
17 violation of this section, but less than the amount prohibited  
18 by section 321J.2.

19 (2) One hundred eighty days, if the previous revocation  
20 under this subsection was made:

21 (a) Under paragraph "a", subparagraph (2), and if the  
22 alcohol concentration for the present offense is in violation  
23 of this section, but less than the amount prohibited by  
24 section 321J.2.

25 (b) Under paragraph "a", subparagraph (1), and if the  
26 alcohol concentration for the present offense is equal to or  
27 in excess of the amount prohibited by section 321J.2.

28 (3) One year, if the previous revocation under this  
29 subsection was made under paragraph "a", subparagraph (2), and  
30 the alcohol concentration for the present offense is equal to  
31 or in excess of the amount prohibited by section 321J.2.

32 4. a. When a person under the age of twenty-one refuses  
33 to submit to a chemical test pursuant to section 321J.6, then  
34 a test shall not be given, but, upon receipt of the peace  
35 officer's certification, upon penalty of perjury, that the

1 officer had reasonable grounds to believe that the person was  
2 operating a motor vehicle in violation of section 321J.2, that  
3 specified conditions existed for chemical testing, and that  
4 the person refused to consent to the chemical testing, the  
5 motor vehicle license or nonresident operating privilege of  
6 the person shall be revoked by the department for the  
7 following periods of time:

8     (1) Two hundred forty days, if the person has had no  
9 previous revocations under this section, or if a previous  
10 revocation under this section was made under subsection 3,  
11 paragraph "a", subparagraph (1).

12     (2) Five hundred forty days, if a previous revocation  
13 under this section was made under subsection 3, paragraph "a",  
14 subparagraph (2), under subsection 3, paragraph "b", or under  
15 this subsection.

16     b. Notwithstanding the provisions of paragraph "a", if a  
17 person under the age of twenty-one refuses to submit to a  
18 chemical test pursuant to section 321J.6, and the only  
19 condition existing under section 321J.6, subsection 1, is  
20 paragraph "g", then the person shall be given the opportunity  
21 to consent to administrative revocation of the person's motor  
22 vehicle license for a period of time equal to the revocation  
23 that would have been imposed under subsection 3 had the person  
24 submitted to chemical testing and the results indicated a  
25 violation of subsection 1.

26     5. A person whose license has been revoked under this  
27 section shall not be eligible for a temporary restricted  
28 license for the following minimum time periods:

29     a. Thirty days, for a revocation under subsection 3,  
30 paragraph "a", subparagraph (1).

31     b. Sixty days, for a revocation under subsection 3,  
32 paragraph "a", subparagraph (2), or subsection 3, paragraph  
33 "b", subparagraph (1) or (2).

34     c. Ninety days, for a revocation under subsection 4,  
35 paragraph "a".

1 d. One year, for a revocation under subsection 3,  
2 paragraph "b", subparagraph (3), or subsection 4, paragraph  
3 "b".

4 6. A revocation under this section shall not preclude a  
5 prosecution or conviction under any applicable criminal  
6 provisions of this chapter. However, if the person is  
7 convicted of a criminal offense under section 321J.2, the  
8 revocation imposed under this section shall ~~be-superseded-by~~  
9 supersede any revocation that would otherwise be imposed as a  
10 result of the conviction.

11 7. All revocations under this section shall be considered  
12 a previous revocation under this chapter for the purposes of  
13 any revocation made after the person is twenty-one years of  
14 age or older.

15 8. In any proceeding regarding a revocation under this  
16 section, evidence of the results of analysis of a specimen of  
17 the defendant's blood, breath, or urine is admissible upon  
18 proof of a proper foundation. The alcohol concentration  
19 established by the results of an analysis of a specimen of the  
20 defendant's blood, breath, or urine withdrawn within two hours  
21 after the defendant was driving or in physical control of a  
22 motor vehicle is presumed to be the alcohol concentration at  
23 the time of driving or being in physical control of the motor  
24 vehicle.

25 Sec. 4. Section 321J.4, subsection 8, Code 1997, is  
26 amended to read as follows:

27 8. a. A person whose motor vehicle license has either  
28 been revoked under this chapter, or revoked or suspended under  
29 chapter 321 solely for violations of this chapter, or who has  
30 been determined to be a habitual offender under chapter 321  
31 based solely on violations of this chapter, and who is not  
32 eligible for a temporary restricted license under this chapter  
33 may petition the court upon the expiration of the minimum  
34 period of ineligibility for a temporary restricted license  
35 provided for under this section or section 321J.9, 321J.12, or

1 321J.20 for an order to the department to require the  
2 department to issue a temporary restricted license to the  
3 person notwithstanding section 321.560. The petition shall  
4 include a current certified copy of the petitioner's official  
5 driving record issued by the department.

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

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

30 d. Section 321.561 does not apply to a person operating a  
31 motor vehicle in the manner permitted under this subsection.

32 e. If the person operates a motor vehicle which does not  
33 have an approved ignition interlock device or if the person  
34 tampers with or circumvents an ignition interlock device, in  
35 addition to other penalties provided, the person's temporary

1 restricted license shall be revoked.

2 f. A person holding a temporary restricted license issued  
3 under this subsection shall not operate a commercial motor  
4 vehicle, as defined in section 321.1, on a highway if a  
5 commercial driver's license is required for the person to  
6 operate the commercial motor vehicle.

7 Sec. 5. Section 321J.8, subsection 2, Code 1997, is  
8 amended to read as follows:

9 2. If the person submits to the test and the results  
10 indicate an alcohol concentration as defined in section 321J.1  
11 of .10 or more, or the person is under the age of twenty-one  
12 and the results indicate an alcohol concentration of .02 or  
13 more, ~~but less than .10~~, the person's motor vehicle license or  
14 nonresident operating privilege will be revoked by the  
15 department as required by and for the applicable period  
16 specified under section 321J.12 or 321J.2A.

17 Sec. 6. Section 321J.9, subsection 1, unnumbered paragraph  
18 1, Code 1997, is amended to read as follows:

19 If a person refuses to submit to the chemical testing, a  
20 test shall not be given, but the department, upon the receipt  
21 of the peace officer's certification, subject to penalty for  
22 perjury, that the officer had reasonable grounds to believe  
23 the person to have been operating a motor vehicle in violation  
24 of section 321J.2 ~~or 321J.2A~~, that specified conditions  
25 existed for chemical testing pursuant to section 321J.6, and  
26 that the person refused to submit to the chemical testing,  
27 shall revoke the person's motor vehicle license and any  
28 nonresident operating privilege for the following periods of  
29 time:

30 Sec. 7. Section 321J.12, subsection 5, Code 1997, is  
31 amended to read as follows:

32 5. Upon certification, subject to penalty of perjury, by  
33 the peace officer that there existed reasonable grounds to  
34 believe that the person had been operating a motor vehicle in  
35 violation of section 321J.2A, that there existed one or more

1 of the necessary conditions for chemical testing described in  
2 section 321J.6, subsection 1, and that the person submitted to  
3 chemical testing and the test results indicated an alcohol  
4 concentration as defined in section 321J.1 of .02 or more but  
5 less-than-~~±0~~, the department shall revoke the person's motor  
6 vehicle license or operating privilege ~~for a period of sixty~~  
7 ~~days if the person has had no revocations within the previous~~  
8 ~~six years under section 321J.2A, and for a period of ninety~~  
9 ~~days if the person has had one or more previous revocations~~  
10 ~~within the previous six years under~~ according to the  
11 provisions of section 321J.2A.

12 Sec. 8. Section 321J.20, subsection 1, Code 1997, is  
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. d. The person's motor vehicle license is  
15 revoked under any of the following sections, and the minimum  
16 period of ineligibility for issuance of a temporary restricted  
17 license has expired:

18 (1) Section 321J.2A, subsection 3, paragraph "a".

19 (2) Section 321J.2A, subsection 4, paragraph "a".

20 Sec. 9. Section 321J.20, subsection 2, Code 1997, is  
21 amended to read as follows:

22 2. This section does not apply to a person whose license  
23 was revoked under ~~section 321J.2A or~~ section 321J.4,  
24 subsection 3 or 5, or to a person whose license is suspended  
25 or revoked for another reason.

26 Sec. 10. Section 321J.25, subsection 4, Code 1997, is  
27 amended to read as follows:

28 4. Upon the revocation of the motor vehicle license or  
29 operating privileges of a person who is fourteen years of age  
30 or older for a violation of section 321J.2A, if the person has  
31 had no previous revocations under ~~either section 321J.2 or~~  
32 section 321J.2A, a person may participate in the substance  
33 abuse awareness program. The state department of  
34 transportation shall notify a potential program participant of  
35 the possibility and potential benefits of attending a program

1 and shall notify a potential program participant of the  
2 availability of programs which exist in the area in which the  
3 person resides. The state department of transportation shall  
4 consult with the Iowa department of public health to determine  
5 what programs are available in various areas of the state.  
6 The period of revocation for a person whose motor vehicle  
7 license or operating privilege has been revoked under section  
8 321J.2A, shall be reduced by fifty percent upon receipt by the  
9 state department of transportation of a certification by a  
10 program provider that the person has completed a program.

11

## EXPLANATION

12 This bill amends Code section 321J.2A, which prohibits a  
13 person under the age of 21 from driving with an alcohol  
14 concentration level of .02 or more. Code section 321J.2, the  
15 operating while intoxicated (OWI) section, prohibits a driver  
16 of any age from driving with an alcohol concentration level  
17 above .10. Conduct by a driver under the age of 21 may fall  
18 under both sections. The bill moves to Code section 321J.2A  
19 all criminal penalty and license revocation standards from  
20 other sections of chapter 321J for a driver who violates Code  
21 section 321J.2A, and makes conforming amendments in numerous  
22 sections of chapters 321 and 321J.

23 Code section 321J.2A currently provides only an  
24 administrative revocation, and does not address criminal  
25 penalties. Under this bill, the section would expressly state  
26 that if the driver's activity violates Code section 321J.2,  
27 the driver would be subject to the criminal sanctions for  
28 operating while intoxicated violations (OWI) under Code  
29 section 321J.2.

30 The bill also provides all license revocation periods for  
31 drivers who violate Code section 321J.2A, and establishes a  
32 graduated scheme of revocation periods. Existing revocation  
33 periods are moved from other sections of chapter 321J, and  
34 some new revocation periods for combinations of offenses not  
35 previously addressed by the Code are added.

1 Minimum periods of ineligibility for a temporary restricted  
 2 license are provided for all combinations of offenses under  
 3 Code sections 321J.2 and 321J.2A. Certain violators of Code  
 4 section 321J.2A would also be able to apply for a temporary  
 5 restricted license after the applicable period of  
 6 ineligibility.

7 The bill provides that all revocations under Code section  
 8 321J.2A will count as a previous revocation under the chapter  
 9 for purposes of any revocations made after the person is 21  
 10 years of age.

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