

**REPRINTED**

FILED FEB 20 1997

SENATE FILE 177  
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 15)

Passed Senate, Date <sup>(p.426)</sup> 2-27-97 Passed House, Date 4/17/97 <sup>(p.1306)</sup>  
Vote: Ayes 44 Nays \_\_\_\_\_ Vote: Ayes 96 Nays 1  
Approved May 19, 1997

**A BILL FOR**

1 An Act relating to motor vehicle operator prohibitions and  
2 restrictions including exhibition driving, littering, blood  
3 alcohol test certificates, and handicapped parking, and by  
4 establishing or making existing penalties applicable.

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

SENATE FILE 177

S-3081

1 Amend Senate File 177 as follows:

2 1. Page 2, by inserting after line 18 the  
3 following:

4 "Sec. \_\_\_\_ . Section 321L.2, subsection 3, paragraph  
5 b, subparagraph (3), Code 1997, is amended to read as  
6 follows:

7 (3) The signature of the person who has been  
8 issued the placard ~~and the signature of the physician~~  
9 ~~or chiropractor who made the determination that the~~  
10 ~~person was handicapped for purposes of issuance of the~~  
11 placard."

12 2. By renumbering as necessary.

*Adopted 2/27/97 (p.426)* BY RICHARD F. DRAKE

S.F. 177

S-3081 FILED FEBRUARY 25, 1997

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1 Section 1. Section 321.236, subsection 1, paragraph a,  
2 Code 1997, is amended to read as follows:

3 a. May be charged and collected upon a simple notice of a  
4 fine payable to the city clerk or clerk of the district court,  
5 if authorized by ordinance. The fine shall not exceed five  
6 dollars except for snow route parking violations in which case  
7 the fine shall not exceed twenty-five dollars. The fine may  
8 be increased up to ten dollars if the parking violation is not  
9 paid within thirty days of the date upon which the violation  
10 occurred, if authorized by ordinance. Violations of section  
11 321L.4, subsection 2, may be charged and collected upon a  
12 simple notice of a ~~five~~ one hundred dollar fine payable to  
13 the city clerk or clerk of the district court, if authorized  
14 by ordinance. No costs or other charges shall be assessed.  
15 All fines collected by a city pursuant to this paragraph shall  
16 be retained by the city and all fines collected by a county  
17 pursuant to this paragraph shall be retained by the county.

18 Sec. 2. NEW SECTION. 321.277A EXHIBITION DRIVING.

19 A person commits exhibition driving if the person operates  
20 a motor vehicle in any one of the following ways:

- 21 1. Creates or causes unnecessary engine noise, tire  
22 squealing, skidding, or sliding upon acceleration or stopping.
- 23 2. Simulates a temporary race.
- 24 3. Causes any wheel or wheels to unnecessarily lose  
25 contact with the ground.
- 26 4. Causes the vehicle to unnecessarily turn abruptly or  
27 sway.

28 Sec. 3. Section 321.369, Code 1997, is amended to read as  
29 follows:

30 321.369 PUTTING DEBRIS ON HIGHWAY.

31 No A person shall not throw or deposit upon any a highway  
32 any glass bottle, glass, nails, tacks, wire, cans, trash,  
33 garbage, rubbish, litter, offal, or any other debris. No A  
34 person shall not throw or deposit upon a highway a substance  
35 likely to injure any person, animal, or vehicle upon such the

1 highway ~~shall be thrown or deposited by any person upon any~~  
2 highway. Any A person who violates any provision of this  
3 section or section 321.370 ~~shall be guilty of~~ commits a  
4 misdemeanor ~~and upon arrest and conviction therefor shall be~~  
5 punished punishable as provided in a scheduled violation under  
6 ~~section 321.482~~ 805.8, subsection 2, paragraph "a".

7 Sec. 4. Section 321J.7, Code 1997, is amended to read as  
8 follows:

9 321J.7 DEAD OR UNCONSCIOUS PERSONS.

10 A person who is dead, unconscious, or otherwise in a  
11 condition rendering the person incapable of consent or refusal  
12 is deemed not to have withdrawn the consent provided by  
13 section 321J.6, and the test may be given if a licensed  
14 physician certifies in advance of the test that the person is  
15 dead, unconscious, or otherwise in a condition rendering that  
16 person incapable of consent or refusal. If the certification  
17 is oral, a written certification shall be completed by the  
18 physician within a reasonable time of the test.

19 Sec. 5. Section 321L.4, subsection 2, Code 1997, is  
20 amended to read as follows:

21 2. The use of a handicapped parking space, located on  
22 either public or private property as provided in sections  
23 321L.5 and 321L.6, by a motor vehicle not displaying a  
24 handicapped parking permit; by a motor vehicle displaying a  
25 handicapped parking permit but not being used by a person in  
26 possession of a motor vehicle license with a handicapped  
27 designation or a nonoperator's identification card with a  
28 handicapped designation, other than a person issued a permit  
29 or being transported in accordance with section 321L.2,  
30 subsection 1, paragraph "b"; or by a motor vehicle in  
31 violation of the rules adopted by the department under section  
32 321L.8, constitutes improper use of a handicapped parking  
33 permit, which is a misdemeanor for which a scheduled fine  
34 shall be imposed upon the owner, operator, or lessee of the  
35 motor vehicle or the person to whom the handicapped parking

1 permit is issued. The scheduled fine for each violation shall  
2 be ~~one-hundred-dollars~~ as established in section 805.8,  
3 subsection 2, paragraph "a". Proof of conviction of two or  
4 more violations involving improper use of a handicapped  
5 parking permit is grounds for revocation by the court or the  
6 department of the holder's privilege to possess or use the  
7 handicapped parking permit.

8 Sec. 6. Section 321L.6, subsection 3, Code 1997, is  
9 amended to read as follows:

10 3. The handicapped parking sign shall include a sign  
11 stating that the scheduled fine for improperly using the  
12 handicapped parking space is ~~fifty-dollars~~ as established in  
13 section 805.8, subsection 2, paragraph "a".

14 Sec. 7. Section 805.8, subsection 2, paragraph a, Code  
15 1997, is amended to read as follows:

16 a. For parking violations under sections 321.236, 321.239,  
17 321.358, 321.360, and 321.361, the scheduled fine is five  
18 dollars. The scheduled fine for a parking violation of  
19 section 321.236 increases in an amount up to ten dollars, as  
20 authorized by ordinance pursuant to section 321.236,  
21 subsection 1, paragraph "a", if the parking violation is not  
22 paid within thirty days of the date upon which the violation  
23 occurred. For purposes of calculating the unsecured  
24 appearance bond required under section 805.6, the scheduled  
25 fine shall be five dollars. However, violations charged by a  
26 city or county upon simple notice of a fine instead of a  
27 uniform citation and complaint as permitted by section  
28 321.236, subsection 1, paragraph "a", are not scheduled  
29 violations, and this section shall not apply to any offense  
30 charged in that manner. For a parking violation under section  
31 321.362 or 461A.38 the scheduled fine is ten dollars. For a  
32 parking violation under section 321L.4, subsection 2, the  
33 scheduled fine is ~~fifty~~ one hundred dollars.

34 Sec. 8. Section 805.8, subsection 2, Code 1997, is amended  
35 by adding the following new paragraph:

1 NEW PARAGRAPH. ad. For violations of section 321.369 or  
2 321.370, the scheduled fine is twenty-five dollars.

3 EXPLANATION

4 New section 321.277A is created to prohibit exhibition  
5 driving. A person commits exhibition driving by causing  
6 unnecessary engine noise, tire squealing, skidding, or sliding  
7 while accelerating or stopping, simulating a race, causing a  
8 wheel or tire to lose contact with the ground unnecessarily,  
9 or causing the vehicle to unnecessarily turn or sway. A  
10 violation of this provision is a simple misdemeanor under  
11 section 321.482.

12 Sections 321.369 and 805.8 are amended to remove the simple  
13 misdemeanor penalty for littering and to provide a scheduled  
14 violation of \$25 for littering. This change is also  
15 applicable to violations of section 321.370 regarding removing  
16 material dropped or thrown on a highway.

17 Section 321J.7 is amended to specifically state that a  
18 physician may provide oral certification for an alcohol or  
19 drug test of a person who is dead, unconscious, or incapable  
20 of providing consent if the oral certification is followed by  
21 written certification by the physician within a reasonable  
22 time of the test.

23 Sections 321.236, 321L.4, 321L.6, and 805.8 are amended to  
24 provide that the penalty for handicapped parking violations is  
25 the \$100 scheduled fine established in section 805.8,  
26 subsection 2.

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1 Section 1. Section 321.236, subsection 1, paragraph a,  
2 Code 1997, is amended to read as follows:

3 a. May be charged and collected upon a simple notice of a  
4 fine payable to the city clerk or clerk of the district court,  
5 if authorized by ordinance. The fine shall not exceed five  
6 dollars except for snow route parking violations in which case  
7 the fine shall not exceed twenty-five dollars. The fine may  
8 be increased up to ten dollars if the parking violation is not  
9 paid within thirty days of the date upon which the violation  
10 occurred, if authorized by ordinance. Violations of section  
11 321L.4, subsection 2, may be charged and collected upon a  
12 simple notice of a ~~fifty~~ one hundred dollar fine payable to  
13 the city clerk or clerk of the district court, if authorized  
14 by ordinance. No costs or other charges shall be assessed.  
15 All fines collected by a city pursuant to this paragraph shall  
16 be retained by the city and all fines collected by a county  
17 pursuant to this paragraph shall be retained by the county.

18 Sec. 2. NEW SECTION. 321.277A EXHIBITION DRIVING.

19 A person commits exhibition driving if the person operates  
20 a motor vehicle in any one of the following ways:

- 21 1. Creates or causes unnecessary engine noise, tire  
22 squealing, skidding, or sliding upon acceleration or stopping.
- 23 2. Simulates a temporary race.
- 24 3. Causes any wheel or wheels to unnecessarily lose  
25 contact with the ground.
- 26 4. Causes the vehicle to unnecessarily turn abruptly or  
27 sway.

28 Sec. 3. Section 321.369, Code 1997, is amended to read as  
29 follows:

30 321.369 PUTTING DEBRIS ON HIGHWAY.

31 No A person shall not throw or deposit upon any a highway  
32 any glass bottle, glass, nails, tacks, wire, cans, trash,  
33 garbage, rubbish, litter, offal, or any other debris. No A  
34 person shall not throw or deposit upon a highway a substance  
35 likely to injure any person, animal, or vehicle upon such the

1 ~~highway shall-be-thrown-or-deposited-by-any-person-upon-any~~  
2 ~~highway. Any A person who violates any-provision-of this~~  
3 ~~section or section 321.370 shall-be-guilty-of commits a~~  
4 ~~misdemeanor and-upon-arrest-and-conviction-therefor-shall-be~~  
5 ~~punished punishable as provided-in a scheduled violation under~~  
6 ~~section ~~321-482~~ 805.8, subsection 2, paragraph "ad".~~

7 Sec. 4. Section 321J.7, Code 1997, is amended to read as  
8 follows:

9 321J.7 DEAD OR UNCONSCIOUS PERSONS.

10 A person who is dead, unconscious, or otherwise in a  
11 condition rendering the person incapable of consent or refusal  
12 is deemed not to have withdrawn the consent provided by  
13 section 321J.6, and the test may be given if a licensed  
14 physician certifies in advance of the test that the person is  
15 dead, unconscious, or otherwise in a condition rendering that  
16 person incapable of consent or refusal. If the certification  
17 is oral, a written certification shall be completed by the  
18 physician within a reasonable time of the test.

19 Sec. 5. Section 321L.2, subsection 3, paragraph b,  
20 subparagraph (3), Code 1997, is amended to read as follows:

21 (3) The signature of the person who has been issued the  
22 placard and-the-signature-of-the-physician-or-chiropractor-who  
23 made-the-determination-that-the-person-was-handicapped-for  
24 purposes-of-issuance-of-the-placard.

25 Sec. 6. Section 321L.4, subsection 2, Code 1997, is  
26 amended to read as follows:

27 2. The use of a handicapped parking space, located on  
28 either public or private property as provided in sections  
29 321L.5 and 321L.6, by a motor vehicle not displaying a  
30 handicapped parking permit; by a motor vehicle displaying a  
31 handicapped parking permit but not being used by a person in  
32 possession of a motor vehicle license with a handicapped  
33 designation or a nonoperator's identification card with a  
34 handicapped designation, other than a person issued a permit  
35 or being transported in accordance with section 321L.2,



1 subsection 1, paragraph "b"; or by a motor vehicle in  
2 violation of the rules adopted by the department under section  
3 321L.8, constitutes improper use of a handicapped parking  
4 permit, which is a misdemeanor for which a scheduled fine  
5 shall be imposed upon the owner, operator, or lessee of the  
6 motor vehicle or the person to whom the handicapped parking  
7 permit is issued. The scheduled fine for each violation shall  
8 be ~~one-hundred-dollars~~ as established in section 805.8,  
9 subsection 2, paragraph "a". Proof of conviction of two or  
10 more violations involving improper use of a handicapped  
11 parking permit is grounds for revocation by the court or the  
12 department of the holder's privilege to possess or use the  
13 handicapped parking permit.

14 Sec. 7. Section 321L.6, subsection 3, Code 1997, is  
15 amended to read as follows:

16 3. The handicapped parking sign shall include a sign  
17 stating that the scheduled fine for improperly using the  
18 handicapped parking space is ~~fifty-dollars~~ as established in  
19 section 805.8, subsection 2, paragraph "a".

20 Sec. 8. Section 805.8, subsection 2, paragraph a, Code  
21 1997, is amended to read as follows:

22 a. For parking violations under sections 321.236, 321.239,  
23 321.358, 321.360, and 321.361, the scheduled fine is five  
24 dollars. The scheduled fine for a parking violation of  
25 section 321.236 increases in an amount up to ten dollars, as  
26 authorized by ordinance pursuant to section 321.236,  
27 subsection 1, paragraph "a", if the parking violation is not  
28 paid within thirty days of the date upon which the violation  
29 occurred. For purposes of calculating the unsecured  
30 appearance bond required under section 805.6, the scheduled  
31 fine shall be five dollars. However, violations charged by a  
32 city or county upon simple notice of a fine instead of a  
33 uniform citation and complaint as permitted by section  
34 321.236, subsection 1, paragraph "a", are not scheduled  
35 violations, and this section shall not apply to any offense

1 charged in that manner. For a parking violation under section  
2 321.362 or 461A.38 the scheduled fine is ten dollars. For a  
3 parking violation under section 321L.4, subsection 2, the  
4 scheduled fine is fifty one hundred dollars.

5 Sec. 9. Section 805.8, subsection 2, Code 1997, is amended  
6 by adding the following new paragraph:

7 NEW PARAGRAPH. ad. For violations of section 321.369 or  
8 321.370, the scheduled fine is twenty-five dollars.

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SENATE FILE 177

H-1299

- 1 Amend Senate File 177, as amended, passed, and
- 2 reprinted by the senate, as follows:
- 3 1. Page 1, line 18, by striking the word
- 4 "EXHIBITION" and inserting the following: "CARELESS".
- 5 2. Page 1, line 19, by striking the word
- 6 "exhibition" and inserting the following: "careless".
- 7 3. Page 2, by striking lines 19 through 24.
- 8 4. Title page, line 2, by striking the word
- 9 "exhibition" and inserting the following: "careless".
- 10 5. Title page, line 3, by striking the words "and
- 11 handicapped parking,".
- 12 6. By renumbering as necessary.

By COMMITTEE ON TRANSPORTATION  
WELTER of Jones, Chairperson

H-1299 FILED MARCH 24, 1997

*Adopted 4-17-97 (p. 1303)*

SENATE FILE 177

H-1686

- 1 Amend Senate File 177, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 19, by inserting after the words
- 4 "the person" the following: "intentionally".

By WEIDMAN of Cass  
RAYHONS of Hancock

H-1686 FILED APRIL 10, 1997

*willd 4-17-97 (p. 1305)*

SENATE FILE 177

H-1771

- 1 Amend Senate File 177, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 2, by inserting after line 24 the
- 4 following:
- 5 "Sec. \_\_\_\_ . NEW SECTION. 321L.2A WHEELCHAIR LIFT
- 6 WARNING CONE.
- 7 The department shall, upon the request of a person
- 8 issued a handicapped parking permit under section
- 9 321L.2 who operates a motor vehicle with a wheelchair
- 10 lift, provide the person with a traffic cone bearing
- 11 the international symbol of accessibility and the
- 12 words "wheelchair lift space". The department shall
- 13 adopt rules as necessary to implement this section."
- 14 2. By renumbering as necessary.

By BRAND of Tama

H-1771 FILED APRIL 17, 1997

ADOPTED (p. 1305)

## SENATE FILE 177

H-1622

1 Amend Senate File 177, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting before line 1 the  
4 following:

5 "Section 1. NEW SECTION. 321.178A DRIVER  
6 EDUCATION -- TEACHING PARENT.

7 1. TEACHING PARENT QUALIFICATIONS. As an  
8 alternative to section 321.178, a teaching parent may  
9 instruct a student in driver's education courses. To  
10 qualify as a teaching parent, the parent or guardian  
11 must hold a teaching certificate at the secondary  
12 level and a valid certificate to teach driver's  
13 education or comply with the definition of a teaching  
14 parent in this section and provide certified evidence  
15 that the requirements under this section have been  
16 met.

17 2. DEFINITIONS. For purposes of this section:

18 a. "Student" means a person within the custody and  
19 control of the teaching parent, who is between the  
20 ages of fourteen and twenty-one years of age and who  
21 satisfies preliminary licensing requirements of the  
22 department.

23 b. "Teaching parent" means a person who is the  
24 parent or guardian of a student who holds a current  
25 valid Iowa license to operate a motor vehicle and who  
26 elects to engage in instruction of the student.

27 3. COURSE OF INSTRUCTION. A driver education  
28 course administered by a teaching parent shall consist  
29 at a minimum of the following:

30 a. Thirty clock hours of classroom instruction.

31 b. Fifty hours of street or highway driving.

32 c. Four hours of classroom instruction concerning  
33 substance abuse.

34 The content of the course of instruction required  
35 under this subsection shall be equivalent to that  
36 required under section 321.178. However, the course  
37 requirements, reference and study materials, manuals,  
38 study aids, workbooks, physical requirements,  
39 classroom dimensions, type of chalkboards, extra  
40 vehicle safety equipment, extra foot brake, cut-off  
41 switches, and extra mirrors required for instruction  
42 under section 321.178 shall not be required for the  
43 course of instruction provided under this section.

44 4. COURSE COMPLETION AND CERTIFICATION. Upon  
45 completion of a course under this section, the  
46 teaching parent shall document or provide evidence  
47 showing substantial statutory compliance with the  
48 requirements of subsection 3 and certify by affidavit  
49 to the department of education that the course has  
50 been completed. Documentation shall include the

H-1622

H-1622

Page 2

1 following:

2 a. An affidavit attesting to satisfactory  
3 completion of course work and laboratory experience.4 b. A listing of subjects presented in classroom  
5 training.6 c. Copies of written tests completed by the  
7 student.8 d. A statement of the number of classroom hours of  
9 instruction.10 e. A log of street and highway instruction  
11 including the date when the lessons were conducted,  
12 the student's and the parent's name and initials noted  
13 next to each entry, notes on driving activities,  
14 including a list of driving deficiencies and  
15 improvements, and the duration of the driving time for  
16 each session. If the department of education is  
17 satisfied that the course has been completed in  
18 accordance with this section, the department shall  
19 certify it as an approved driver's education course.20 5. DRIVER'S LICENSE. Any student who successfully  
21 completes an approved driver education course as  
22 provided in this section shall be eligible for a  
23 driver's license at the age of sixteen years upon  
24 completion of a driving skills test administered  
25 pursuant to section 321.186 or by an individual  
26 certified by the department of education to teach  
27 driver education."28 2. Title page, line 3, by inserting after the  
29 word "parking," the following: "allowing teaching  
30 parents to provide driver's education instruction,".

31 3. By renumbering as necessary.

By CARROLL of Poweshiek

H-1622 FILED APRIL 8, 1997

*Rule not germane 4-17-97 (p. 1305)*

## SENATE FILE 177

H-1752

1 Amend Senate File 177, as amended, passed, and  
2 reprinted by the Senate, as follows:3 1. Page 1, line 19, by inserting after the words  
4 "the person" the following: "intentionally".5 2. Page 1, line 20, by inserting after the word  
6 "vehicle" the following: "on a public road or  
7 highway".8 3. Page 4, line 7, by inserting after the word  
9 "section" the following: "321.277A,".

By WEIDMAN of Cass

H-1752 FILED APRIL 15, 1997

*Adopted 4-17-97 (p. 1305)*

SENATE FILE 177

S-3717

1 Amend the House amendment, S-3573, to Senate File  
2 177, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. Page 1, by inserting after line 11 the  
5 following:

6 "\_\_\_\_. Page 1, line 21, by striking the words  
7 "engine noise,"."

8 2. By renumbering as necessary.

By ANDY McKEAN  
WALLY E. HORN  
MERLIN E. BARTZ

S-3717 FILED APRIL 23, 1997  
ADOPTED (p. 1384)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 177  
H-1907

1 Amend the House amendment, S-3573, to Senate File  
2 177, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. Page 1, by inserting after line 11 the  
5 following:

6 "\_\_\_\_. Page 1, line 21, by striking the words  
7 "engine noise,"."

8 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-1907 FILED APRIL 23, 1997

*House Concurred 4/24/97 (p. 1527)*

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SENATE FILE 177

S-3689

- 1 Amend the House amendment, S-3573, to Senate File
- 2 177, as amended, passed, and reprinted by the Senate,
- 3 as follows:
- 4 1. Page 1, by striking lines 3 through 11 and
- 5 inserting the following:
- 6 "\_\_\_\_. Page 1, by striking lines 18 through 27."
- 7 2. Page 1, by striking lines 26 and 27 and
- 8 inserting the following:
- 9 "\_\_\_\_. Title page, line 2, by striking the words
- 10 "exhibition driving,"."
- 11 3. By renumbering as necessary.

By MERLIN E. BARTZ

S-3689 FILED APRIL 22, 1997 *w/d 4/23/97 (p. 1354)*

HOUSE AMENDMENT TO  
SENATE FILE 177

S-3573

- 1 Amend Senate File 177, as amended, passed, and
- 2 reprinted by the senate, as follows:
- 3 1. Page 1, line 18, by striking the word
- 4 "EXHIBITION" and inserting the following: "CARELESS".
- 5 2. Page 1, line 19, by striking the word
- 6 "exhibition" and inserting the following: "careless".
- 7 3. Page 1, line 19, by inserting after the words
- 8 "the person" the following: "intentionally".
- 9 4. Page 1, line 20, by inserting after the word
- 10 "vehicle" the following: "on a public road or
- 11 highway".
- 12 5. Page 2, by striking lines 19 through 24.
- 13 6. Page 2, by inserting after line 24 the
- 14 following:
- 15 "Sec. \_\_\_\_ . NEW SECTION. 321L.2A WHEELCHAIR LIFT
- 16 WARNING CONE.
- 17 The department shall, upon the request of a person
- 18 issued a handicapped parking permit under section
- 19 321L.2 who operates a motor vehicle with a wheelchair
- 20 lift, provide the person with a traffic cone bearing
- 21 the international symbol of accessibility and the
- 22 words "wheelchair lift space". The department shall
- 23 adopt rules as necessary to implement this section."
- 24 7. Page 4, line 7, by inserting after the word
- 25 "section" the following: "321.277A,".
- 26 8. Title page, line 2, by striking the word
- 27 "exhibition" and inserting the following: "careless".
- 28 9. Title page, line 3, by striking the words "and
- 29 handicapped parking,".
- 30 10. By renumbering, relettering, or redesignating
- 31 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

3573 FILED APRIL 17, 1997

*Senate concurred in as amended  
4/23/97 (p. 1354)*

Mc Kean, Chair

SSB-15

Fraiser

Mc Kibben

Transportation

Succeeded By  
SENATE/HOUSE FILE  
BY (PROPOSED DEPARTMENT OF  
PUBLIC SAFETY BILL)

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

A BILL FOR

1 An Act relating to motor vehicle operator prohibitions and  
2 restrictions including those related to intoxication or  
3 simulation of intoxication in the interior of a motor vehicle  
4 located on public roads or property, following another motor  
5 vehicle too closely, exhibition driving, littering, blood  
6 alcohol test certificates, and handicapped parking, and by  
7 establishing or making existing penalties applicable.

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

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1 Section 1. Section 123.46, subsection 2, Code 1997, is  
2 amended to read as follows:

3 2. A person shall not use or consume alcoholic liquor,  
4 wine, or beer upon the public streets or highways. A person  
5 shall not use or consume alcoholic liquor in any public place  
6 except premises covered by a liquor control license. A person  
7 shall not possess or consume alcoholic liquors, wine, or beer  
8 on public school property or while attending a public or  
9 private school-related function. A person shall not be  
10 intoxicated or simulate intoxication in a public place or in  
11 the interior of a motor vehicle located on a public street or  
12 highway or on the property of a public place. A person  
13 violating this subsection is guilty of a simple misdemeanor.

14 Sec. 2. Section 125.34, subsection 1, Code 1997, is  
15 amended to read as follows:

16 1. An intoxicated person may come voluntarily to a  
17 facility for emergency treatment. A person who appears to be  
18 intoxicated or incapacitated by a chemical substance in a  
19 public place or in the interior of a motor vehicle located on  
20 a public highway or on the property of a public place and in  
21 need of help may be taken to a facility by a peace officer  
22 under section 125.91. If the person refuses the proffered  
23 help, the person may be arrested and charged with intoxication  
24 under section 123.46, if applicable.

25 Sec. 3. Section 321.236, subsection 1, paragraph a, Code  
26 1997, is amended to read as follows:

27 a. May be charged and collected upon a simple notice of a  
28 fine payable to the city clerk or clerk of the district court,  
29 if authorized by ordinance. The fine shall not exceed five  
30 dollars except for snow route parking violations in which case  
31 the fine shall not exceed twenty-five dollars. The fine may  
32 be increased up to ten dollars if the parking violation is not  
33 paid within thirty days of the date upon which the violation  
34 occurred, if authorized by ordinance. Violations of section  
35 321L.4, subsection 2, may be charged and collected upon a

1 simple notice of a fifty one hundred dollar fine payable to  
2 the city clerk or clerk of the district court, if authorized  
3 by ordinance. No costs or other charges shall be assessed.  
4 All fines collected by a city pursuant to this paragraph shall  
5 be retained by the city and all fines collected by a county  
6 pursuant to this paragraph shall be retained by the county.

7 Sec. 4. NEW SECTION. 321.277A EXHIBITION DRIVING.

8 A person commits exhibition driving if the person operates  
9 a motor vehicle in any one of the following ways:

10 1. Creates or causes unnecessary engine noise, tire  
11 squealing, skidding, or sliding upon acceleration or stopping.

12 2. Simulates a temporary race.

13 3. Causes any wheel or wheels to unnecessarily lose  
14 contact with the ground.

15 4. Causes the vehicle to unnecessarily turn abruptly or  
16 sway.

17 Sec. 5. Section 321.307, Code 1997, is amended to read as  
18 follows:

19 321.307 FOLLOWING TOO CLOSELY.

20 The driver of a motor vehicle shall not follow another  
21 vehicle more closely than ~~is-reasonable-and-prudent,-having~~  
22 ~~due-regard-for-the-speed-of-such-vehicles-and-the-traffic-upon~~  
23 ~~and-the-condition-of-the-highway~~ the distance which would be  
24 traveled in two seconds at the following motor vehicle's  
25 speed. A commercial vehicle shall not follow another motor  
26 vehicle more closely than the distance which would be traveled  
27 in three seconds at the following commercial vehicle's speed.  
28 However, the separation distances set out in this section  
29 shall not be construed to prevent a greater distance from  
30 being considered following too closely due to traffic, road,  
31 or weather conditions, or any other condition affecting safe  
32 operation.

33 Sec. 6. Section 321.369, Code 1997, is amended to read as  
34 follows:

35 321.369 PUTTING DEBRIS ON HIGHWAY.

1 No A person shall not throw or deposit upon any a highway  
2 any glass bottle, glass, nails, tacks, wire, cans, trash,  
3 garbage, rubbish, litter, offal, or any other debris. No A  
4 person shall not throw or deposit upon a highway a substance  
5 likely to injure any person, animal, or vehicle upon such the  
6 highway ~~shall-be-thrown-or-deposited-by-any-person-upon-any~~  
7 highway. Any A person who violates any ~~provision-of~~ this  
8 section or section 321.370 ~~shall-be-guilty-of~~ commits a  
9 misdemeanor ~~and-upon-arrest-and-conviction-therefor-shall-be~~  
10 punished punishable as provided-in a scheduled violation under  
11 section ~~321-482~~ 805.8, subsection 2, paragraph "ad".

12 Sec. 7. Section 321J.7, Code 1997, is amended to read as  
13 follows:

14 321J.7 DEAD OR UNCONSCIOUS PERSONS.

15 A person who is dead, unconscious, or otherwise in a  
16 condition rendering the person incapable of consent or refusal  
17 is deemed not to have withdrawn the consent provided by  
18 section 321J.6, and the test may be given if a licensed  
19 physician certifies in advance of the test that the person is  
20 dead, unconscious, or otherwise in a condition rendering that  
21 person incapable of consent or refusal. If the certification  
22 is oral, a written certification shall be completed by the  
23 physician within a reasonable time of the test.

24 Sec. 8. Section 321L.4, subsection 2, Code 1997, is  
25 amended to read as follows:

26 2. The use of a handicapped parking space, located on  
27 either public or private property as provided in sections  
28 321L.5 and 321L.6, by a motor vehicle not displaying a  
29 handicapped parking permit; by a motor vehicle displaying a  
30 handicapped parking permit but not being used by a person in  
31 possession of a motor vehicle license with a handicapped  
32 designation or a nonoperator's identification card with a  
33 handicapped designation, other than a person issued a permit  
34 or being transported in accordance with section 321L.2,  
35 subsection 1, paragraph "b"; or by a motor vehicle in

1 violation of the rules adopted by the department under section  
2 321L.8, constitutes improper use of a handicapped parking  
3 permit, which is a misdemeanor for which a scheduled fine  
4 shall be imposed upon the owner, operator, or lessee of the  
5 motor vehicle or the person to whom the handicapped parking  
6 permit is issued. The scheduled fine for each violation shall  
7 be one-hundred-dollars as established in section 805.8,  
8 subsection 2, paragraph "a". Proof of conviction of two or  
9 more violations involving improper use of a handicapped  
10 parking permit is grounds for revocation by the court or the  
11 department of the holder's privilege to possess or use the  
12 handicapped parking permit.

13 Sec. 9. Section 321L.6, subsection 3, Code 1997, is  
14 amended to read as follows:

15 3. The handicapped parking sign shall include a sign  
16 stating that the scheduled fine for improperly using the  
17 handicapped parking space is fifty-dollars as established in  
18 section 805.8, subsection 2, paragraph "a".

19 Sec. 10. Section 805.8, subsection 2, paragraph a, Code  
20 1997, is amended to read as follows:

21 a. For parking violations under sections 321.236, 321.239,  
22 321.358, 321.360, and 321.361, the scheduled fine is five  
23 dollars. The scheduled fine for a parking violation of  
24 section 321.236 increases in an amount up to ten dollars, as  
25 authorized by ordinance pursuant to section 321.236,  
26 subsection 1, paragraph "a", if the parking violation is not  
27 paid within thirty days of the date upon which the violation  
28 occurred. For purposes of calculating the unsecured  
29 appearance bond required under section 805.6, the scheduled  
30 fine shall be five dollars. However, violations charged by a  
31 city or county upon simple notice of a fine instead of a  
32 uniform citation and complaint as permitted by section  
33 321.236, subsection 1, paragraph "a", are not scheduled  
34 violations, and this section shall not apply to any offense  
35 charged in that manner. For a parking violation under section

1 321.362 or 461A.38 the scheduled fine is ten dollars. For a  
2 parking violation under section 321L.4, subsection 2, the  
3 scheduled fine is fifty one hundred dollars.

4 Sec. 11. Section 805.8, subsection 2, Code 1997, is  
5 amended by adding the following new paragraph:

6 NEW PARAGRAPH. ad. For violations of section 321.369 or  
7 321.370, the scheduled fine is twenty-five dollars.

8 EXPLANATION

9 Sections 123.46 and 125.34 are amended to make it a simple  
10 misdemeanor to be intoxicated or to simulate intoxication in  
11 the interior of a motor vehicle located on a public highway or  
12 on property of a public place or for such a person to refuse  
13 assistance under chapter 125 regarding chemical substance  
14 abuse.

15 New section 321.277A is created to prohibit exhibition  
16 driving. A person commits exhibition driving by causing  
17 unnecessary engine noise, tire squealing, skidding, or sliding  
18 while accelerating or stopping, simulating a race, causing a  
19 wheel or tire to lose contact with the ground unnecessarily,  
20 or causing the vehicle to unnecessarily turn or sway. A  
21 violation of this provision is a simple misdemeanor under  
22 section 321.482.

23 Section 321.307 is amended to change the language related  
24 to following too closely from the current reasonable and  
25 prudent standard to a distance based upon the distance the  
26 following vehicle will cover in two seconds or, if the  
27 following vehicle is a commercial vehicle, three seconds. A  
28 person may also violate this section if the traffic, road,  
29 weather, or other condition makes the two or three second  
30 interval too close for safe operation of the following motor  
31 vehicle.

32 Sections 321.369 and 805.8 are amended to remove the simple  
33 misdemeanor penalty for littering and to provide a scheduled  
34 violation of \$25 for littering. This change is also  
35 applicable to violations of section 321.370 regarding removing

1 material dropped or thrown on a highway.

2 Section 321J.7 is amended to specifically state that a  
3 physician may provide oral certification for an alcohol or  
4 drug test of a person who is dead, unconscious, or incapable  
5 of providing consent if the oral certification is followed by  
6 written certification by the physician within a reasonable  
7 time of the test.

8 Sections 321.236, 321L.4, 321L.6, and 805.8 are amended to  
9 provide that the penalty for handicapped parking violations is  
10 the \$100 scheduled fine established in section 805.8,  
11 subsection 2.

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TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY  
PAUL H. WIECK II, COMMISSIONER

**LSB 1055 DP**

December 17, 1996

DEC 18 1996

To: Members of the General Assembly

Re: Motor Vehicle Legislation

**Intoxication: Interior of a Motor Vehicle**

In 1991, a Supreme Court decision, *State v. Lake*, 476 N.W. 2d 55 (Iowa 1991), stated that a person could not be charged with public intoxication while in the interior of a motor vehicle. This decision was contrary to current policies. Removing this discretion results in forcing a peace officer, when arresting a drunk driver, to release an uncooperative or unruly intoxicated passenger in situations where this person could present a danger to himself or to others and in situations where no legal and capable driver for the motor vehicle can be found. Prior to the 1991 decision, the statutory interpretation permitted an officer to exercise discretion in those situations requiring such arrest action.

**Following Too Closely**

Following too closely represents one of the most common driver actions resulting in collision. The state has experienced several major accidents resulting in fatalities due to drivers following too closely. It is also a major contributing factor in numerous less serious accidents. Current law refers to "reasonable and prudent" and provides no standard for measurement and is vague and unenforceable. The "two second" rule is taught in drivers education courses and by the National Safety Council and is in the Iowa Driver's Manual. This proposal recognizes that advances in design, different reaction times, and differing road conditions affect stopping distance. This proposal represents a much more proactive approach that can be utilized in situations of diminished visibility and provides a basis for determining appropriate following distances in adverse driving conditions. It would greatly enhance driver awareness and the safety of the state's roadways.

**Exhibition Driving**

Currently, there is no middle-ground that can be charged for the unsafe operation of a motor vehicle. Peace officers must charge an individual with drag-racing or with reckless driving, both very serious charges. A middle ground that correctly identifies this "exhibition" type driving behavior as a contributing factor to the unsafe operation of a motor vehicle assists a peace officer in enforcing the safe operation of a motor vehicle.

**Littering**

This proposal simply provides that Littering may be charged on a uniform citation with a scheduled violation rather than having the offender need to appear in court. This would allow violators to plead guilty and to pay the fine. If a violator wished to plead not guilty, he could still do so by appearing in court.

### **Dead or Unconscious Persons**

Section 321J.7 states that a physician must certify in advance of an alcohol test that a person is dead, unconscious, or incapable of giving consent. A recent court ruling on motion to suppress (*State vs. Esser*) states that "a fair reading of the decisions of the Appellate Courts require an actual written certificate to be completed in cases where the person being tested is dead, unconscious or otherwise in a condition rendering him incapable of consent or refusal". The Court defines this as a flaw in the statute that needs to be addressed, recognizing that a busy physician, working in an emergency room situation, would be required to stop treatment in order to fill out a certificate. The ruling further states that "it is also obvious that the timing of the actual writing in no way infringes on the Defendant's rights, since he has absolutely nothing to do with the doctor's determination of his condition. However, until either the legislature or the Appellate Courts reinterpret the language of section 321J.7, it will have to be followed." This proposal addressed the language of the statute to clarify that verbal certification to proceed with the test may precede the actual written certification.

### **Handicapped Parking Fine**

SF 2085 failed to address all sections of the Code in which the fine for violation of a handicapped parking space was included. It changed the fine to \$100 in one section of the Code but left it at \$50 in two other sections. This proposal addresses that omission.

Submitted by: The Iowa Department of Public Safety



SENATE FILE 177

AN ACT

RELATING TO MOTOR VEHICLE OPERATOR PROHIBITIONS AND RESTRICTIONS INCLUDING CARELESS DRIVING, LITTERING, BLOOD ALCOHOL TEST CERTIFICATES, AND BY ESTABLISHING OR MAKING EXISTING PENALTIES APPLICABLE.

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

Section 1. Section 321.236, subsection 1, paragraph a, Code 1997, is amended to read as follows:

a. May be charged and collected upon a simple notice of a fine payable to the city clerk or clerk of the district court, if authorized by ordinance. The fine shall not exceed five dollars except for snow route parking violations in which case the fine shall not exceed twenty-five dollars. The fine may be increased up to ten dollars if the parking violation is not paid within thirty days of the date upon which the violation

occurred, if authorized by ordinance. Violations of section 321L.4, subsection 2, may be charged and collected upon a simple notice of a fifty one hundred dollar fine payable to the city clerk or clerk of the district court, if authorized by ordinance. No costs or other charges shall be assessed. All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county.

Sec. 2. NEW SECTION. 321.277A CARELESS DRIVING.

A person commits careless driving if the person intentionally operates a motor vehicle on a public road or highway in any one of the following ways:

1. Creates or causes unnecessary tire squealing, skidding, or sliding upon acceleration or stopping.
2. Simulates a temporary race.
3. Causes any wheel or wheels to unnecessarily lose contact with the ground.
4. Causes the vehicle to unnecessarily turn abruptly or sway.

Sec. 3. Section 321.369, Code 1997, is amended to read as follows:

321.369 PUTTING DEBRIS ON HIGHWAY.

No A person shall not throw or deposit upon any a highway any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris. No A person shall not throw or deposit upon a highway a substance likely to injure any person, animal, or vehicle upon such the highway ~~shall-be-thrown-or-deposited-by-any-person-upon-any~~ highway. Any A person who violates ~~any-provision-of~~ this section or section 321.370 ~~shall-be-guilty-of~~ commits a misdemeanor and upon arrest and conviction therefor shall be punished punishable as provided in a scheduled violation under section ~~321:482~~ 805.8, subsection 2, paragraph "a".

Sec. 4. Section 321J.7, Code 1997, is amended to read as follows:

321J.7 DEAD OR UNCONSCIOUS PERSONS.

A person who is dead, unconscious, or otherwise in a condition rendering the person incapable of consent or refusal is deemed not to have withdrawn the consent provided by section 321L.6, and the test may be given if a licensed physician certifies in advance of the test that the person is dead, unconscious, or otherwise in a condition rendering that person incapable of consent or refusal. If the certification is oral, a written certification shall be completed by the physician within a reasonable time of the test.

Sec. 5. NEW SECTION. 321L.2A WHEELCHAIR LIFT WARNING CONE.

The department shall, upon the request of a person issued a handicapped parking permit under section 321L.2 who operates a motor vehicle with a wheelchair lift, provide the person with a traffic cone bearing the international symbol of accessibility and the words "wheelchair lift space". The department shall adopt rules as necessary to implement this section.

Sec. 6. Section 321L.4, subsection 2, Code 1997, is amended to read as follows:

2. The use of a handicapped parking space, located on either public or private property as provided in sections 321L.5 and 321L.6, by a motor vehicle not displaying a handicapped parking permit; by a motor vehicle displaying a handicapped parking permit but not being used by a person in possession of a motor vehicle license with a handicapped designation or a nonoperator's identification card with a handicapped designation, other than a person issued a permit or being transported in accordance with section 321L.2, subsection 1, paragraph "b"; or by a motor vehicle in violation of the rules adopted by the department under section 321L.8, constitutes improper use of a handicapped parking permit, which is a misdemeanor for which a scheduled fine shall be imposed upon the owner, operator, or lessee of the motor vehicle or the person to whom the handicapped parking

permit is issued. The scheduled fine for each violation shall be one hundred dollars as established in section 805.8, subsection 2, paragraph "a". Proof of conviction of two or more violations involving improper use of a handicapped parking permit is grounds for revocation by the court of the department of the holder's privilege to possess or use the handicapped parking permit.

Sec. 7. Section 321L.6, subsection 3, Code 1997, is amended to read as follows:

3. The handicapped parking sign shall include a sign stating that the scheduled fine for improperly using the handicapped parking space is fifty dollars as established in section 805.8, subsection 2, paragraph "a".

Sec. 8. Section 805.8, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars. The scheduled fine for a parking violation of section 321.236 increases in an amount up to ten dollars, as authorized by ordinance pursuant to section 321.236, subsection 1, paragraph "a", if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond required under section 805.6, the scheduled fine shall be five dollars. However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 321.362 or 462A.58 the scheduled fine is ten dollars. For a parking violation under section 321L.4, subsection 2, the scheduled fine is fifty one hundred dollars.

Sec. 9. Section 805.8, subsection 2, Code 1997, is amended by adding the following new paragraph:

Senate File 177, p. 5

NEW PARAGRAPH. ad. For violations of section 321.277A, 321.369 or 321.370, the scheduled fine is twenty-five dollars.

.....  
MARY E. KRAMER  
President of the Senate

.....  
RON J. CORRETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 177, Seventy-seventh General Assembly.

.....  
MARY PAT GUNDERSON  
Secretary of the Senate

Approved *May 19*, 1997

.....  
TERRY E. BRANSTAD  
Governor

SF 177