

3/5/98 Amend/Do Pass w/
H. 8264

REPRINTED

FILED FEB 5 1998

SENATE FILE 2136
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2044)

Passed Senate, ^(p. 277) Date 2/12/98 Passed House, Date 3/23/98 ^(p. 840)
Vote: Ayes 44 Nays 0 Vote: Ayes 97 Nays 0
Approved April 10, 1998

A BILL FOR

1 An Act relating to statutory corrections which may adjust
2 language to reflect current practices, insert earlier
3 omissions, delete redundancies and inaccuracies, delete
4 temporary language, resolve inconsistencies and conflicts,
5 update ongoing provisions, or remove ambiguities, and
6 providing effective and retroactive applicability dates.

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

- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

S.F. 2136

1 Section 1. Section 321G.18, Code 1997, is amended to read
2 as follows:

3 321G.18 NEGLIGENCE.

4 The owner and operator of an all-terrain vehicle or
5 snowmobile ~~is~~ are liable for any injury or damage occasioned
6 by the negligent operation of the all-terrain vehicle or
7 snowmobile.

8 Sec. 2. Section 529.1, subsections 2, 9, and 11, Code
9 1997, are amended to read as follows:

10 2. "Check cashing" means exchanging for compensation a
11 check, draft, money order, traveler's check, or a payment
12 instrument of a ~~licensee~~ money transmitter for money delivered
13 to the presenter at the time and place of the presentation.

14 9. "Money transmitter" means a person who is located or
15 doing business in this state, including a check ~~cashier~~ casher
16 and a foreign money exchanger, and who does any of the
17 following:

18 a. Sells or issues payment instruments.

19 b. Conducts the business of receiving money for the
20 transmission of or transmitting money.

21 c. Conducts the business of exchanging payment instruments
22 or money into any form of money or payment instrument.

23 d. Conducts the business of receiving money for obligors
24 for the purpose of paying obligors' bills, invoices, or
25 accounts.

26 e. Meets the definition of a bank, financial agency, or
27 financial institution as prescribed by 31 U.S.C. § 5312 or 31
28 C.F.R. § 103.11 and any successor provisions.

29 11. "Proceeds" means property acquired or derived directly
30 or indirectly from, produced through, realized through, or
31 caused by an act or omission and includes any property of any
32 kind.

33 11A. "Property" means anything of value, and includes any
34 interest in property, including any benefit, privilege, claim,
35 or right with respect to anything of value, whether real or

1 personal, tangible or intangible, without reduction for
2 expenses incurred for acquisition, maintenance, production, or
3 any other purpose.

4 Sec. 3. Section 529.2, subsection 6, paragraph b, Code
5 1997, is amended to read as follows:

6 b. With the intent to disguise the fact that money or a
7 payment instrument is the proceeds of criminal conduct, or
8 with intent to promote, manage, establish, carry on, or
9 facilitate the promotion, management, establishment, or
10 carrying on of any criminal conduct, or with intent to evade
11 the making or filing of a report required under this chapter,
12 or with intent to cause the making or filing of a report that
13 contains a material omission or misstatement of fact, ~~or with~~
14 ~~intent~~ to conduct or structure a transaction or series of
15 transactions by or through one or more licensees, authorized
16 delegates, money transmitters, financial institutions, or
17 persons engaged in a trade or business.

18 Sec. 4. Section 706A.2, subsection 3, Code 1997, is
19 amended to read as follows:

20 3. MONEY LAUNDERING. It is unlawful for a person to
21 commit money laundering ~~as-defined~~ in violation of chapter
22 706B.

23 Sec. 5. Section 706A.3, subsection 8, paragraph b, Code
24 1997, is amended to read as follows:

25 b. For the purposes of this subsection:

26 (1) "Agent" means any officer, director, or employee of
27 the legal entity, or any other person who is authorized to act
28 in behalf of the legal entity.

29 (2) "High managerial agent" means any officer of the legal
30 entity or, in the case of a partnership, a partner, or any
31 other agent in a position of comparable authority with respect
32 to the formulation of policy of the legal entity.

33 {3} 8A. Notwithstanding any other provision of law, any
34 pleading, motion, or other paper filed by a nongovernmental
35 aggrieved party in connection with a proceeding or action

1 under subsection 7 shall be verified. If such aggrieved
2 person is represented by an attorney, such pleading, motion,
3 or other paper shall be signed by at least one attorney of
4 record in the attorney's individual name, whose address shall
5 be stated.

6 If such pleading, motion, or other paper includes an
7 averment of fraud, coercion, accomplice, respondent superior,
8 conspiratorial, enterprise, or other vicarious accountability,
9 it shall state, insofar as practicable, the circumstances with
10 particularity. The verification and the signature by an
11 attorney required by this subsection shall constitute a
12 certification by the signer that the attorney has carefully
13 read the pleading, motion, or other paper and, based on a
14 reasonable inquiry, believes that all of the following exist:

15 (a) a. It is well grounded in fact.

16 (b) b. It is warranted by existing law, or a good faith
17 argument for the extension, modification, or reversal of
18 existing law.

19 (c) c. It is not made for an improper purpose, including
20 to harass, to cause unnecessary delay, or to impose a needless
21 increase in the cost of litigation.

22 The court may, after a hearing and appropriate findings of
23 fact, impose upon any person who verified the complaint,
24 cross-claim, or counterclaim, or any attorney who signed it in
25 violation of this subsection, or both, a fit and proper
26 sanction, which may include an order to pay to the other party
27 or parties the amount of the reasonable expenses incurred
28 because of the complaint or claim, including reasonable
29 attorney fees. If the court determines that the filing of a
30 complaint or claim under subsection 7 by a nongovernmental
31 party was frivolous in whole or in part, the court shall award
32 double the actual expenses, including attorney fees, incurred
33 because of the frivolous portion of the complaint or claim.

34 Sec. 6. Section 706B.2, subsection 1, unnumbered paragraph
35 1, Code 1997, is amended to read as follows:

1 It is unlawful for a person to ~~do~~ commit money laundering
2 by doing any of the following:

3 Sec. 7. Section 706B.2, subsection 2, Code 1997, is
4 amended to read as follows:

5 2. A person who violates:

6 a. Subsection 1, paragraph "a", "b", or "c", commits a
7 class "C" felony, and may be fined not more than ten thousand
8 dollars or twice the value of the property involved, whichever
9 is greater, or ~~by-imprisonment~~ be imprisoned for not more than
10 ten years, or both.

11 b. Subsection 1, paragraph "d", commits a class "D"
12 felony, and may be fined not more than seven thousand five
13 hundred dollars or twice the value of the property involved,
14 whichever is greater, or ~~by-imprisonment~~ be imprisoned for not
15 more than five years, or both.

16 Sec. 8. Section 809A.1, subsection 1, Code 1997, is
17 amended by striking the subsection.

18 Sec. 9. Section 809A.1, subsection 4, Code 1997, is
19 amended to read as follows:

20 4. "Owner" means a person, other than an interest holder,
21 who has an interest in property. A person who holds property
22 for the benefit of or ~~for~~ as an agent or nominee for another
23 person, or who is not in substantial compliance with any
24 statute requiring an interest in property to be recorded or
25 reflected in public records in order to perfect the interest
26 against a good faith purchaser for value, is not an owner.

27 Sec. 10. Section 809A.4, subsection 5, Code 1997, is
28 amended to read as follows:

29 5. Any interest or security in, claim against, or property
30 or contractual right of any kind affording a source of control
31 over any enterprise that a person has established, operated,
32 controlled, or conducted through, or participated in the
33 conduct, or through conduct giving rise to forfeiture.

34 Sec. 11. Section 809A.4, subsection 6, paragraph a,
35 unnumbered paragraph 1, Code 1997, is amended to read as

1 follows:

2 Any property of a person up to the value of property of
3 which is either of the following:

4 Sec. 12. Section 809A.18, subsection 1, Code 1997, is
5 amended to read as follows:

6 1. A prosecuting attorney may conduct an investigation of
7 any conduct that gives rise to forfeiture. The prosecuting
8 attorney is authorized, before the commencement of a
9 proceeding or action under this chapter, to subpoena
10 witnesses, and compel their attendance, examine them under
11 oath, and require the production of documentary evidence for
12 inspection, reproducing, or copying. Except as otherwise
13 provided by this section, the prosecuting attorney shall
14 proceed under this subsection with the same powers and
15 limitations, and judicial oversight and enforcement, and in
16 the manner provided by this chapter and by the Iowa rules of
17 civil procedure. Any person compelled to appear under a
18 demand for oral testimony under this section may be
19 accompanied, represented, and advised by counsel.

20 Sec. 13. 1994 Iowa Acts, chapter 1072, section 9, as
21 amended by 1995 Iowa Acts, chapter 185, section 46, is
22 repealed.

23 EXPLANATION

24 Code section 321G.18: In the section relating to the
25 liability of owners and operators of all-terrain vehicles and
26 snowmobiles, "is liable" is changed to "are liable" in
27 response to the recent supreme court case Johnson v. Johnson,
28 564 NW2d 414 (Iowa 1996). The court in Johnson concluded that
29 the current "is liable" language is grammatically incorrect
30 and that "is liable" should be read as "are liable".

31 Code sections 529.1(2), (9), and (11), 529.2(6)(b),
32 706A.2(3), 706A.3(8)(b), 706B.2(1), 706B.2(2), 809A.1(1) and
33 (4), 809A.4(5) and (6)(a), and 809A.18(1): In sections
34 relating to economic and other penalties for certain criminal
35 activity, use of defined terms is corrected, incorrect and

1 unused references are stricken and corrected, and grammatical
2 changes are made which are necessary for the application of
3 the sections. In Code section 529.1, the bill provides the
4 correct definition of "proceeds" and applies the previous
5 definition to the term "property". In Code section 529.2,
6 subsection 6, paragraph "b", "or with intent" is stricken
7 preceding "to conduct or structure a transaction", making a
8 grammatical correction in the provision. The Code sections
9 were added in 1996 Iowa Acts, chapter 1133, and were based on
10 model legislation by the president's commission on model state
11 drug laws (1993). The changes in this bill are necessary
12 because some portions of the model laws were not incorporated
13 into the Code, resulting in incorrect references in the
14 portions incorporated into the Code, and some portions of the
15 model laws were incorporated into the Code with grammatical
16 imperfections.

17 1994 Iowa Acts, chapter 1072, section 9, as amended by 1995
18 Iowa Acts, chapter 185, section 46: This section provides an
19 effective date for certain provisions of Code chapter 507E,
20 relating to creation of an insurance fraud bureau, the
21 implementation of which is contingent upon the receipt of a
22 federal grant and the appropriation of matching funds by the
23 general assembly. 1997 Iowa Acts, chapter 211, section 3,
24 subsection 5, appropriated state funds for this purpose, but
25 no federal grant has been made. Therefore, the section
26 providing the contingent effective date is repealed.

27

28

29

30

31

32

33

34

35

SENATE FILE 2136

S-5033

1 Amend Senate File 2136 as follows:

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

4 "Section 1. Section 19A.3, subsection 13, Code
5 Supplement 1997, is amended to read as follows:

6 13. Members of the Iowa highway-safety state
7 patrol and other peace officers employed by the
8 department of public safety. The commissioner of
9 public safety shall adopt rules not inconsistent with
10 the objectives of this chapter for the persons
11 described in this subsection.

12 Sec. 2. Section 29A.79, unnumbered paragraph 2,
13 Code 1997, is amended to read as follows:

14 The Iowa national guard shall be requested to
15 provide the emergency helicopter ambulance service
16 from its available staffed helicopters when the plan
17 is implemented on order of the governor at the request
18 of the Iowa highway-safety state patrol, or the
19 administrative heads of the hospitals located in Iowa,
20 unless the Iowa national guard does not have a staffed
21 helicopter available or is in active service under the
22 armed forces of the United States.

23 Sec. 3. Section 80.4, Code 1997, is amended to
24 read as follows:

25 80.4 HIGHWAY IOWA STATE PATROL.

26 The Iowa highway-safety state patrol is established
27 in the department of public safety. The patrol shall
28 be under the direction of the commissioner of public
29 safety.

30 Sec. 4. Section 80.6, Code 1997, is amended to
31 read as follows:

32 80.6 IMPERSONATING OFFICER -- UNIFORM.

33 Any person who impersonates a member of the Iowa
34 safety state patrol or other officer or employee of
35 the department, or wears a uniform likely to be
36 confused with the official uniform of any such
37 officer, with intent to deceive anyone, shall be
38 guilty of a simple misdemeanor.

39 Sec. 5. Section 80.8, unnumbered paragraphs 2 and
40 3, Code 1997, are amended to read as follows:

41 The commissioner may delegate to the members of the
42 Iowa highway-safety state patrol such additional
43 duties in the enforcement of this chapter as the
44 commissioner may deem proper and incidental to the
45 duties now imposed upon them by law.

46 The salaries of all members and employees of the
47 department and the expenses of the department shall be
48 provided for by the legislative appropriation
49 therefor. The compensation of the members of the
50 highway Iowa state patrol shall be fixed according to

S-5033

S-5033

Page 2

1 grades as to rank and length of service by the
2 commissioner with the approval of the governor. The
3 members of the highway Iowa state patrol shall be paid
4 additional compensation in accordance with the
5 following formula: When members of the highway Iowa
6 state patrol have served for a period of five years
7 their compensation then being paid shall be increased
8 by the sum of twenty-five dollars per month beginning
9 with the month succeeding the foregoing described
10 five-year period; when members thereof have served for
11 a period of ten years their compensation then being
12 paid shall be increased by the sum of twenty-five
13 dollars per month beginning with the month succeeding
14 the foregoing described ten-year period, such sums
15 being in addition to the increase provided herein to
16 be paid after five years of service; when members
17 thereof have served for a period of fifteen years
18 their compensation then being paid shall be increased
19 by the sum of twenty-five dollars per month beginning
20 with the month succeeding the foregoing described
21 fifteen-year period, such sums being in addition to
22 the increases previously provided for herein; when
23 members thereof have served for a period of twenty
24 years their compensation then being paid shall be
25 increased by the sum of twenty-five dollars per month
26 beginning with the month succeeding the foregoing
27 described twenty-year period, such sums being in
28 addition to the increases previously provided for
29 herein. While on active duty each member shall also
30 receive a flat daily sum as fixed by the commissioner
31 with the approval of the governor for meals while away
32 from the office to which the member has been assigned
33 and within the member's district.

34 Sec. 6. Section 80.9, subsection 2, paragraph h,
35 Code 1997, is amended to read as follows:

36 h. To maintain a vehicle theft unit in the Iowa
37 highway-safety state patrol to investigate and assist
38 in the examination and identification of stolen,
39 altered, or forfeited vehicles.

40 Sec. 7. Section 80.15, Code 1997, is amended to
41 read as follows:

42 80.15 EXAMINATION -- OATH -- PROBATION --
43 DISCIPLINE -- DISMISSAL.

44 An applicant for membership in the department of
45 public safety, except clerical workers and special
46 agents appointed under section 80.7, shall not be
47 appointed as a member until the applicant has passed a
48 satisfactory physical and mental examination. In
49 addition, the applicant must be a citizen of the
50 United States and be not less than twenty-two years of

S-5033

-2-

S-5033

Page 3

1 age. The mental examination shall be conducted under
2 the direction or supervision of the commissioner of
3 public safety and may be oral or written or both.
4 Each applicant shall take an oath on becoming a member
5 of the force, to uphold the laws and Constitution of
6 the United States and of the state of Iowa. During
7 the period of twelve months after appointment, any
8 member of the department of public safety, except
9 members of the present Iowa highway-safety state
10 patrol who have served more than six months, is
11 subject to dismissal at the will of the commissioner.
12 After the twelve months' service, a member of the
13 department, who was appointed after having passed the
14 examinations, is not subject to dismissal, suspension,
15 disciplinary demotion, or other disciplinary action
16 resulting in the loss of pay unless charges have been
17 filed with the department of inspections and appeals
18 and a hearing held by the employment appeal board
19 created by section 10A.601, if requested by the
20 member, at which the member has an opportunity to
21 present a defense to the charges. The decision of the
22 appeal board is final, subject to the right of
23 judicial review in accordance with the terms of the
24 Iowa administrative procedure Act. However, these
25 procedures as to dismissal, suspension, demotion, or
26 other discipline do not apply to a member who is
27 covered by a collective bargaining agreement which
28 provides otherwise nor to the demotion of a division
29 head to the rank which the division head held at the
30 time of appointment as division head, if any. A
31 division head who is demoted has the right to return
32 to the rank which the division head held at the time
33 of appointment as division head, if any. All rules,
34 except employment provisions negotiated pursuant to
35 chapter 20, regarding the enlistment, appointment, and
36 employment affecting the personnel of the department
37 shall be established by the commissioner in
38 consultation with the director of the department of
39 personnel, subject to approval by the governor.

40 Sec. 8. Section 80.17, subsection 4, Code 1997, is
41 amended to read as follows:

42 4. Division of highway-safety-and-uniformed-force
43 the Iowa state patrol.

44 Sec. 9. Section 85.61, subsection 11, unnumbered
45 paragraph 1, Code Supplement 1997, is amended to read
46 as follows:

47 "Worker" or "employee" means a person who has
48 entered into the employment of, or works under
49 contract of service, express or implied, or
50 apprenticeship, for an employer; an executive officer

S-5033

-3-

S-5033

Page 4

1 elected or appointed and empowered under and in
2 accordance with the charter and bylaws of a
3 corporation, including a person holding an official
4 position, or standing in a representative capacity of
5 the employer; an official elected or appointed by the
6 state, or a county, school district, area education
7 agency, municipal corporation, or city under any form
8 of government; a member of the Iowa highway-safety
9 state patrol; a conservation officer; and a
10 proprietor, limited liability company member, or
11 partner who elects to be covered pursuant to section
12 85.1A, except as specified in this chapter.

13 Sec. 10. Section 97A.1, subsection 13, Code 1997,
14 is amended to read as follows:

15 13. "Peace officer" or "peace officers" shall mean
16 all members of the divisions of highway-safety-and
17 ~~uniformed-force~~ the Iowa state patrol and criminal
18 investigation and bureau of identification in the
19 department of public safety, except clerical workers,
20 including but not limited to gaming enforcement
21 officers employed by the division of criminal
22 investigation for excursion boat gambling enforcement
23 activities, who have passed a satisfactory physical
24 and mental examination and have been duly appointed as
25 members of the state department of public safety in
26 accordance with section 80.15, and the division of
27 drug law enforcement, and arson investigators and fire
28 prevention inspector peace officers in the department
29 of public safety, except clerical workers, employees
30 of the division of capitol police, except clerical
31 workers, and the division of beer and liquor law
32 enforcement of the department of public safety, except
33 clerical workers.

34 Sec. 11. Section 97A.4, unnumbered paragraph 2,
35 Code 1997, is amended to read as follows:

36 Any member of the system who has been employed
37 continuously prior to the passage of this chapter in
38 the division of ~~highway-safety,-uniformed-force,-and~~
39 ~~radio-communications~~ the Iowa state patrol or the
40 division of criminal investigation and bureau of
41 identification in the department of public safety, or
42 as a member of the Iowa highway-safety state patrol,
43 or as a peace officer or a member of the uniformed
44 force in any department or division whose functions
45 were transferred to, merged, or consolidated in the
46 department of public safety at the time such
47 department was created, shall receive credit for such
48 service in determining retirement and disability
49 benefits provided for in this chapter. Arson
50 investigators who have contributed to this system

S-5033

-4-

S-5033

Page 5

1 prior to July 1, 1978 shall receive credit for such
2 service in determining retirement and disability
3 benefits.

4 Sec. 12. Section 97A.6, subsection 8, paragraph b,
5 Code 1997, is amended to read as follows:

6 b. In lieu of the payment specified in paragraph
7 "a," a beneficiary meeting the qualifications of
8 paragraph "c" may elect to receive a monthly pension
9 equal to one-twelfth of forty percent of the average
10 final compensation of the member, but not less than an
11 amount equal to twenty percent of the monthly earnable
12 compensation paid to an active member having the rank
13 of senior patrol officer of the Iowa highway-safety
14 state patrol if the member was in service at the time
15 of death. For a member not in service at the time of
16 death, the pension shall be reduced as provided in
17 subsection 1, paragraph "b".

18 For a member not in service at the time of death,
19 the pension shall be paid commencing when the member
20 would have attained the age of fifty-five except that
21 if there is a child of the member, the pension shall
22 be paid commencing with the member's death until the
23 children reach the age of eighteen, or twenty-two if
24 applicable. The pension shall resume commencing when
25 the member would have attained the age of fifty-five.

26 For a member in service at the time of death, the
27 pension shall be paid commencing with the member's
28 death. In addition to the pension, there shall also
29 be paid for each child of a member, a monthly pension
30 equal to six percent of the monthly earnable
31 compensation payable to an active member having the
32 rank of senior patrol officer of the Iowa highway
33 safety state patrol.

34 For the purpose of this chapter, a senior patrol
35 officer is a person who has completed ten years of
36 service in the Iowa highway-safety state patrol.

37 Notwithstanding section 97A.6, subsection 8, Code
38 1985, effective July 1, 1990, for a member's surviving
39 spouse who, prior to July 1, 1986, elected to receive
40 pension benefits under this paragraph, the monthly
41 pension benefit shall be equal to the higher of one-
42 twelfth of forty percent of the average final
43 compensation of the member, or the amount the
44 surviving spouse was receiving on July 1, 1990.

45 Sec. 13. Section 97A.6, subsection 9, paragraph c,
46 Code 1997, is amended to read as follows:

47 c. In addition to the benefits for the surviving
48 spouse enumerated in this subsection, there shall also
49 be paid for each child of a member a monthly pension
50 equal to six percent of the monthly earnable

S-5033

-5-

S-5033

Page 6

1 compensation payable to an active member having the
2 rank of senior patrol officer of the Iowa highway
3 safety state patrol.

4 Sec. 14. Section 97A.6, subsection 12, paragraph
5 a, Code 1997, is amended to read as follows:

6 a. To the member's surviving spouse, equal to one-
7 half the amount received by the deceased beneficiary,
8 but in no instance less than an amount equal to
9 twenty-five percent of the monthly earnable

10 compensation paid to an active member having the rank
11 of senior patrol officer of the Iowa highway-safety
12 state patrol, and in addition a monthly pension equal
13 to the monthly pension payable under subsection 9,
14 paragraph "c", of this section for each child under
15 eighteen years of age or twenty-two years of age if
16 applicable; or

17 Sec. 15. Section 97A.6, subsection 14, paragraph
18 a, unnumbered paragraph 4, Code 1997, is amended to
19 read as follows:

20 As of the first of July of each year, the monthly
21 pension payable to each surviving child under the
22 provisions of subsections 8, 9 and 12 of this section
23 shall be adjusted to equal six percent of the monthly
24 earnable compensation payable on that July 1 to an
25 active member having the rank of senior patrol officer
26 of the Iowa highway-safety state patrol.

27 Sec. 16. Section 101A.10, Code 1997, is amended to
28 read as follows:

29 101A.10 PERSONS AND AGENCIES EXEMPT.

30 This chapter shall not apply to the transportation
31 and use of explosive materials by the regular military
32 or naval forces of the United States, the duly
33 organized militia of this state, representatives of
34 the state fire marshal, the Iowa highway-safety state
35 patrol, division of criminal investigation and bureau
36 of identification, local police departments, sheriffs
37 departments, and fire departments acting in their
38 official capacity; nor shall this chapter apply to the
39 transportation and use of explosive materials by any
40 peace officer to enforce provisions of this chapter
41 when the peace officer is acting pursuant to such
42 authority, however, other agencies of the state or any
43 of its political subdivisions desiring to purchase,
44 possess, transport, or use explosive materials for
45 construction or other purposes shall be required to
46 obtain user's permits.

47 Sec. 17. Section 172B.1, subsection 1, Code 1997,
48 is amended to read as follows:

49 1. "Law enforcement officer" means a an Iowa state
50 highway-safety patrol officer, a sheriff, or other

S-5033

-6-

S-5033

Page 7

1 peace officer so designated by this state or by a
2 county or municipality.

3 Sec. 18. Section 307.12, subsection 13, Code 1997,
4 is amended to read as follows:

5 13. Adopt, after consultation with the department
6 of natural resources and the department of public
7 safety, rules relating to enforcement of the rules
8 regarding transportation of hazardous wastes adopted
9 by the department of natural resources. The
10 department and the division of the highway-safety Iowa
11 state patrol of the department of public safety shall
12 carry out the enforcement of the rules.

13 Sec. 19. Section 321.2, unnumbered paragraph 2,
14 Code 1997, is amended to read as follows:

15 The division of the highway-safety Iowa state
16 patrol of the department of public safety shall
17 enforce the provisions of this chapter relating to
18 traffic on the public highways of the state, including
19 those relating to the safe and legal operation of
20 passenger cars, motorcycles, motor trucks and buses,
21 and to see that proper safety rules are observed.

22 Sec. 20. Section 321.19, subsection 1, unnumbered
23 paragraph 2, Code Supplement 1997, is amended to read
24 as follows:

25 The department shall furnish, on application, free
26 of charge, distinguishing plates for vehicles thus
27 exempted, which plates except plates on Iowa highway
28 safety state patrol vehicles shall bear the word
29 "official" and the department shall keep a separate
30 record. Registration plates issued for Iowa highway
31 safety state patrol vehicles, except unmarked patrol
32 vehicles, shall bear two red stars on a yellow
33 background, one before and one following the
34 registration number on the plate, which registration
35 number shall be the officer's badge number.

36 Registration plates issued for a county sheriff's
37 patrol vehicles shall display one seven-pointed gold
38 star followed by the letter "S" and the call number of
39 the vehicle. However, the director of general
40 services or the director of transportation may order
41 the issuance of regular registration plates for any
42 exempted vehicle used by peace officers in the
43 enforcement of the law, persons enforcing chapter 124
44 and other laws relating to controlled substances,
45 persons in the department of justice, the alcoholic
46 beverages division of the department of commerce, the
47 department of inspections and appeals, and the
48 department of revenue and finance, who are regularly
49 assigned to conduct investigations which cannot
50 reasonably be conducted with a vehicle displaying

S-5033

-7-

S-5033

Page 8

1 "official" state registration plates, and persons in
2 the lottery division of the department of revenue and
3 finance whose regularly assigned duties relating to
4 security or the carrying of lottery tickets cannot
5 reasonably be conducted with a vehicle displaying
6 "official" registration plates. For purposes of sale
7 of exempted vehicles, the exempted governmental body,
8 upon the sale of the exempted vehicle, may issue for
9 in-transit purposes a pasteboard card bearing the
10 words "Vehicle in Transit", the name of the official
11 body from which the vehicle was purchased, together
12 with the date of the purchase plainly marked in at
13 least one-inch letters, and other information required
14 by the department. The in-transit card is valid for
15 use only within forty-eight hours after the purchase
16 date as indicated on the bill of sale which shall be
17 carried by the driver.

18 Sec. 21. Section 321.89, subsection 1, paragraph
19 c, Code 1997, is amended to read as follows:

20 c. "Police authority" means the Iowa highway
21 safety state patrol, any law enforcement agency of a
22 county or city, or any special security officer
23 employed by the state board of regents under section
24 262.13.

25 Sec. 22. Section 321.266, subsections 1 and 4,
26 Code Supplement 1997, are amended to read as follows:

27 1. The driver of a vehicle involved in an accident
28 resulting in injury to or death of any person shall
29 immediately by the quickest means of communication
30 give notice of such accident to the sheriff of the
31 county in which said accident occurred, or the nearest
32 office of the Iowa highway-safety state patrol, or to
33 any other peace officer as near as practicable to the
34 place where the accident occurred.

35 4. Notwithstanding section 455B.386, a carrier
36 transporting hazardous material upon a public highway
37 in this state, in the case of an accident involving
38 the transportation of the hazardous material, shall
39 immediately notify the police radio broadcasting
40 system established pursuant to section 693.1 or shall
41 notify a peace officer of the county or city in which
42 the accident occurs. When a local law enforcement
43 agency is informed of the accident, the agency shall
44 notify the Iowa highway-safety state patrol and the
45 state department of transportation office of motor
46 vehicle enforcement. A person who violates a
47 provision of this subsection is guilty of a serious
48 misdemeanor.

49 Sec. 23. Section 321.380, Code 1997, is amended to
50 read as follows:

S-5033

-8-

S-5033

Page 9

1 321.380 ENFORCEMENT.

2 It shall be the duty of all peace officers and of
3 the ~~highway-safety~~ Iowa state patrol to enforce the
4 provisions of sections 321.372 to 321.379.

5 Sec. 24. Section 321.457, subsection 3, Code 1997,
6 is amended to read as follows:

7 3. Fire fighting apparatus and vehicles operated
8 during daylight hours when transporting poles, pipe,
9 machinery, or other objects of a structural nature
10 which cannot be readily disassembled when required for
11 emergency repair of public service facilities or
12 properties are not subject to the limitations on
13 overall length of vehicles and combinations of
14 vehicles imposed under this section. However, for
15 operation during nighttime hours, these vehicles and
16 the load being transported shall be equipped with a
17 sufficient number of clearance lamps on both sides and
18 marker lamps at the extreme ends of the projecting
19 load to clearly mark the dimensions of the load. A
20 member of the Iowa state ~~highway-safety~~ patrol shall
21 also be notified prior to the operation of the
22 vehicle."

23 2. Page 1, by inserting after line 7 the
24 following:

25 "Sec. _____. Section 321J.1, subsection 7, paragraph
26 a, Code 1997, is amended to read as follows:

27 a. A member of the ~~highway~~ Iowa state patrol.

28 Sec. _____. Section 331.907, subsection 1, Code
29 1997, is amended to read as follows:

30 1. The annual compensation of the auditor,
31 treasurer, recorder, sheriff, county attorney, and
32 supervisors shall be determined as provided in this
33 section. The county compensation board annually shall
34 review the compensation paid to comparable officers in
35 other counties of this state, other states, private
36 enterprise, and the federal government. In setting
37 the salary of the county sheriff, the county
38 compensation board shall consider setting the
39 sheriff's salary so that it is comparable to salaries
40 paid to professional law enforcement administrators
41 and command officers of the Iowa highway-safety state
42 patrol, the division of criminal investigation of the
43 department of public safety, and city police agencies
44 in this state. The county compensation board shall
45 prepare a compensation schedule for the elective
46 county officers for the succeeding fiscal year. A
47 recommended compensation schedule requires a majority
48 vote of the membership of the county compensation
49 board.

50 Sec. _____. Section 452A.76, unnumbered paragraph 1,

S-5033

S-5033

Page 10

1 Code 1997, is amended to read as follows:

2 Authority to enforce division III is given to the
3 state department of transportation. Employees of the
4 department of transportation designated enforcement
5 employees have the power of peace officers in the
6 performance of their duties; however, they shall not
7 be considered members of the Iowa highway-safety state
8 patrol. The department of transportation shall
9 furnish enforcement employees with necessary equipment
10 and supplies in the same manner as provided in section
11 80.18, including uniforms which are distinguishable in
12 color and design from those of the Iowa highway-safety
13 state patrol. Enforcement employees shall be
14 furnished and shall conspicuously display badges of
15 authority."

16 3. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
ANDY MCKEAN, Chairperson

S-5033 FILED FEBRUARY 12, 1998

ADOPTED (p.276)

SENATE FILE 2136

S-5031

1 Amend Senate File 2136 as follows:

- 2 1. Page 5, by striking lines 20 through 22.
3 2. By renumbering as necessary.

By MARY NEUHAUSER
ANDY MCKEAN

S-5031 FILED FEBRUARY 12, 1998

ADOPTED

(p.277)

SENATE FILE 2136
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2044)

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 12, 1998)

_____ - New Language by the Senate

* - Language Stricken by the Senate

Passed Senate, Date ^(p. 940) 3/30/98 Passed House, Date 3/23/98(p. 840)
Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 0
Approved April 10, 1998

A BILL FOR

1 An Act relating to statutory corrections which may adjust
2 language to reflect current practices, insert earlier
3 omissions, delete redundancies and inaccuracies, delete
4 temporary language, resolve inconsistencies and conflicts,
5 update ongoing provisions, or remove ambiguities, and
6 providing effective and retroactive applicability dates.

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

- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21

S.F. 2136

1 Section 1. Section 19A.3, subsection 13, Code Supplement
2 1997, is amended to read as follows:

3 13. Members of the Iowa highway-safety state patrol and
4 other peace officers employed by the department of public
5 safety. The commissioner of public safety shall adopt rules
6 not inconsistent with the objectives of this chapter for the
7 persons described in this subsection.

8 Sec. 2. Section 29A.79, unnumbered paragraph 2, Code 1997,
9 is amended to read as follows:

10 The Iowa national guard shall be requested to provide the
11 emergency helicopter ambulance service from its available
12 staffed helicopters when the plan is implemented on order of
13 the governor at the request of the Iowa highway-safety state
14 patrol, or the administrative heads of the hospitals located
15 in Iowa, unless the Iowa national guard does not have a
16 staffed helicopter available or is in active service under the
17 armed forces of the United States.

18 Sec. 3. Section 80.4, Code 1997, is amended to read as
19 follows:

20 80.4 HIGHWAY IOWA STATE PATROL.

21 The Iowa highway-safety state patrol is established in the
22 department of public safety. The patrol shall be under the
23 direction of the commissioner of public safety.

24 Sec. 4. Section 80.6, Code 1997, is amended to read as
25 follows:

26 80.6 IMPERSONATING OFFICER -- UNIFORM.

27 Any person who impersonates a member of the Iowa safety
28 state patrol or other officer or employee of the department,
29 or wears a uniform likely to be confused with the official
30 uniform of any such officer, with intent to deceive anyone,
31 shall be guilty of a simple misdemeanor.

32 Sec. 5. Section 80.8, unnumbered paragraphs 2 and 3, Code
33 1997, are amended to read as follows:

34 The commissioner may delegate to the members of the Iowa
35 highway-safety state patrol such additional duties in the

1 enforcement of this chapter as the commissioner may deem
2 proper and incidental to the duties now imposed upon them by
3 law.

4 The salaries of all members and employees of the department
5 and the expenses of the department shall be provided for by
6 the legislative appropriation therefor. The compensation of
7 the members of the highway Iowa state patrol shall be fixed
8 according to grades as to rank and length of service by the
9 commissioner with the approval of the governor. The members of
10 the highway Iowa state patrol shall be paid additional
11 compensation in accordance with the following formula: When
12 members of the highway Iowa state patrol have served for a
13 period of five years their compensation then being paid shall
14 be increased by the sum of twenty-five dollars per month
15 beginning with the month succeeding the foregoing described
16 five-year period; when members thereof have served for a
17 period of ten years their compensation then being paid shall
18 be increased by the sum of twenty-five dollars per month
19 beginning with the month succeeding the foregoing described
20 ten-year period, such sums being in addition to the increase
21 provided herein to be paid after five years of service; when
22 members thereof have served for a period of fifteen years
23 their compensation then being paid shall be increased by the
24 sum of twenty-five dollars per month beginning with the month
25 succeeding the foregoing described fifteen-year period, such
26 sums being in addition to the increases previously provided
27 for herein; when members thereof have served for a period of
28 twenty years their compensation then being paid shall be
29 increased by the sum of twenty-five dollars per month
30 beginning with the month succeeding the foregoing described
31 twenty-year period, such sums being in addition to the
32 increases previously provided for herein. While on active duty
33 each member shall also receive a flat daily sum as fixed by
34 the commissioner with the approval of the governor for meals
35 while away from the office to which the member has been

1 assigned and within the member's district.

2 Sec. 6. Section 80.9, subsection 2, paragraph h, Code
3 1997, is amended to read as follows:

4 h. To maintain a vehicle theft unit in the Iowa highway
5 safety state patrol to investigate and assist in the
6 examination and identification of stolen, altered, or
7 forfeited vehicles.

8 Sec. 7. Section 80.15, Code 1997, is amended to read as
9 follows:

10 80.15 EXAMINATION -- OATH -- PROBATION -- DISCIPLINE --
11 DISMISSAL.

12 An applicant for membership in the department of public
13 safety, except clerical workers and special agents appointed
14 under section 80.7, shall not be appointed as a member until
15 the applicant has passed a satisfactory physical and mental,
16 examination. In addition, the applicant must be a citizen of
17 the United States and be not less than twenty-two years of
18 age. The mental examination shall be conducted under the
19 direction or supervision of the commissioner of public safety
20 and may be oral or written or both. Each applicant shall take
21 an oath on becoming a member of the force, to uphold the laws
22 and Constitution of the United States and of the state of
23 Iowa. During the period of twelve months after appointment,
24 any member of the department of public safety, except members
25 of the present Iowa highway-safety state patrol who have
26 served more than six months, is subject to dismissal at the
27 will of the commissioner. After the twelve months' service, a
28 member of the department, who was appointed after having
29 passed the examinations, is not subject to dismissal,
30 suspension, disciplinary demotion, or other disciplinary
31 action resulting in the loss of pay unless charges have been
32 filed with the department of inspections and appeals and a
33 hearing held by the employment appeal board created by section
34 10A.601, if requested by the member, at which the member has
35 an opportunity to present a defense to the charges. The

1 decision of the appeal board is final, subject to the right of
2 judicial review in accordance with the terms of the Iowa
3 administrative procedure Act. However, these procedures as to
4 dismissal, suspension, demotion, or other discipline do not
5 apply to a member who is covered by a collective bargaining
6 agreement which provides otherwise nor to the demotion of a
7 division head to the rank which the division head held at the
8 time of appointment as division head, if any. A division head
9 who is demoted has the right to return to the rank which the
10 division head held at the time of appointment as division
11 head, if any. All rules, except employment provisions
12 negotiated pursuant to chapter 20, regarding the enlistment,
13 appointment, and employment affecting the personnel of the
14 department shall be established by the commissioner in
15 consultation with the director of the department of personnel,
16 subject to approval by the governor.

17 Sec. 8. Section 80.17, subsection 4, Code 1997, is amended
18 to read as follows:

19 4. Division of highway-safety-and-uniformed-force the Iowa
20 state patrol.

21 Sec. 9. Section 85.61, subsection 11, unnumbered paragraph
22 1, Code Supplement 1997, is amended to read as follows:

23 "Worker" or "employee" means a person who has entered into
24 the employment of, or works under contract of service, express
25 or implied, or apprenticeship, for an employer; an executive
26 officer elected or appointed and empowered under and in
27 accordance with the charter and bylaws of a corporation,
28 including a person holding an official position, or standing
29 in a representative capacity of the employer; an official
30 elected or appointed by the state, or a county, school
31 district, area education agency, municipal corporation, or
32 city under any form of government; a member of the Iowa
33 highway-safety state patrol; a conservation officer; and a
34 proprietor, limited liability company member, or partner who
35 elects to be covered pursuant to section 85.1A, except as

1 specified in this chapter.

2 Sec. 10. Section 97A.1, subsection 13, Code 1997, is
3 amended to read as follows:

4 13. "Peace officer" or "peace officers" shall mean all
5 members of the divisions of highway-safety-and-uniformed-force
6 the Iowa state patrol and criminal investigation and bureau of
7 identification in the department of public safety, except
8 clerical workers, including but not limited to gaming
9 enforcement officers employed by the division of criminal
10 investigation for excursion boat gambling enforcement
11 activities, who have passed a satisfactory physical and mental
12 examination and have been duly appointed as members of the
13 state department of public safety in accordance with section
14 80.15, and the division of drug law enforcement, and arson
15 investigators and fire prevention inspector peace officers in
16 the department of public safety, except clerical workers,
17 employees of the division of capitol police, except clerical
18 workers, and the division of beer and liquor law enforcement
19 of the department of public safety, except clerical workers.

20 Sec. 11. Section 97A.4, unnumbered paragraph 2, Code 1997,
21 is amended to read as follows:

22 Any member of the system who has been employed continuously
23 prior to the passage of this chapter in the division of
24 highway-safety,-uniformed-force,-and-radio-communications the
25 Iowa state patrol or the division of criminal investigation
26 and bureau of identification in the department of public
27 safety, or as a member of the Iowa highway-safety state
28 patrol, or as a peace officer or a member of the uniformed
29 force in any department or division whose functions were
30 transferred to, merged, or consolidated in the department of
31 public safety at the time such department was created, shall
32 receive credit for such service in determining retirement and
33 disability benefits provided for in this chapter. Arson
34 investigators who have contributed to this system prior to
35 July 1, 1978 shall receive credit for such service in

1 determining retirement and disability benefits.

2 Sec. 12. Section 97A.6, subsection 8, paragraph b, Code
3 1997, is amended to read as follows:

4 b. In lieu of the payment specified in paragraph "a," a
5 beneficiary meeting the qualifications of paragraph "c" may
6 elect to receive a monthly pension equal to one-twelfth of
7 forty percent of the average final compensation of the member,
8 but not less than an amount equal to twenty percent of the
9 monthly earnable compensation paid to an active member having
10 the rank of senior patrol officer of the Iowa highway-safety
11 state patrol if the member was in service at the time of
12 death. For a member not in service at the time of death, the
13 pension shall be reduced as provided in subsection 1,
14 paragraph "b".

15 For a member not in service at the time of death, the
16 pension shall be paid commencing when the member would have
17 attained the age of fifty-five except that if there is a child
18 of the member, the pension shall be paid commencing with the
19 member's death until the children reach the age of eighteen,
20 or twenty-two if applicable. The pension shall resume
21 commencing when the member would have attained the age of
22 fifty-five.

23 For a member in service at the time of death, the pension
24 shall be paid commencing with the member's death. In addition
25 to the pension, there shall also be paid for each child of a
26 member, a monthly pension equal to six percent of the monthly
27 earnable compensation payable to an active member having the
28 rank of senior patrol officer of the Iowa highway-safety state
29 patrol.

30 For the purpose of this chapter, a senior patrol officer is
31 a person who has completed ten years of service in the Iowa
32 highway-safety state patrol.

33 Notwithstanding section 97A.6, subsection 8, Code 1985,
34 effective July 1, 1990, for a member's surviving spouse who,
35 prior to July 1, 1986, elected to receive pension benefits

1 under this paragraph, the monthly pension benefit shall be
2 equal to the higher of one-twelfth of forty percent of the
3 average final compensation of the member, or the amount the
4 surviving spouse was receiving on July 1, 1990.

5 Sec. 13. Section 97A.6, subsection 9, paragraph c, Code
6 1997, is amended to read as follows:

7 c. In addition to the benefits for the surviving spouse
8 enumerated in this subsection, there shall also be paid for
9 each child of a member a monthly pension equal to six percent
10 of the monthly earnable compensation payable to an active
11 member having the rank of senior patrol officer of the Iowa
12 highway-safety state patrol.

13 Sec. 14. Section 97A.6, subsection 12, paragraph a, Code
14 1997, is amended to read as follows:

15 a. To the member's surviving spouse, equal to one-half the
16 amount received by the deceased beneficiary, but in no
17 instance less than an amount equal to twenty-five percent of
18 the monthly earnable compensation paid to an active member
19 having the rank of senior patrol officer of the Iowa highway
20 safety state patrol, and in addition a monthly pension equal
21 to the monthly pension payable under subsection 9, paragraph
22 "c", of this section for each child under eighteen years of
23 age or twenty-two years of age if applicable; or

24 Sec. 15. Section 97A.6, subsection 14, paragraph a,
25 unnumbered paragraph 4, Code 1997, is amended to read as
26 follows:

27 As of the first of July of each year, the monthly pension
28 payable to each surviving child under the provisions of
29 subsections 8, 9 and 12 of this section shall be adjusted to
30 equal six percent of the monthly earnable compensation payable
31 on that July 1 to an active member having the rank of senior
32 patrol officer of the Iowa highway-safety state patrol.

33 Sec. 16. Section 101A.10, Code 1997, is amended to read as
34 follows:

35 101A.10 PERSONS AND AGENCIES EXEMPT.

1 This chapter shall not apply to the transportation and use
2 of explosive materials by the regular military or naval forces
3 of the United States, the duly organized militia of this
4 state, representatives of the state fire marshal, the Iowa
5 highway-safety state patrol, division of criminal
6 investigation and bureau of identification, local police
7 departments, sheriffs departments, and fire departments acting
8 in their official capacity; nor shall this chapter apply to
9 the transportation and use of explosive materials by any peace
10 officer to enforce provisions of this chapter when the peace
11 officer is acting pursuant to such authority, however, other
12 agencies of the state or any of its political subdivisions
13 desiring to purchase, possess, transport, or use explosive
14 materials for construction or other purposes shall be required
15 to obtain user's permits.

16 Sec. 17. Section 172B.1, subsection 1, Code 1997, is
17 amended to read as follows:

18 1. "Law enforcement officer" means a an Iowa state highway
19 safety patrol officer, a sheriff, or other peace officer so
20 designated by this state or by a county or municipality.

21 Sec. 18. Section 307.12, subsection 13, Code 1997, is
22 amended to read as follows:

23 13. Adopt, after consultation with the department of
24 natural resources and the department of public safety, rules
25 relating to enforcement of the rules regarding transportation
26 of hazardous wastes adopted by the department of natural
27 resources. The department and the division of the highway
28 safety Iowa state patrol of the department of public safety
29 shall carry out the enforcement of the rules.

30 Sec. 19. Section 321.2, unnumbered paragraph 2, Code 1997,
31 is amended to read as follows:

32 The division of the highway-safety Iowa state patrol of the
33 department of public safety shall enforce the provisions of
34 this chapter relating to traffic on the public highways of the
35 state, including those relating to the safe and legal

1 operation of passenger cars, motorcycles, motor trucks and
2 buses, and to see that proper safety rules are observed.

3 Sec. 20. Section 321.19, subsection 1, unnumbered
4 paragraph 2, Code Supplement 1997, is amended to read as
5 follows:

6 The department shall furnish, on application, free of
7 charge, distinguishing plates for vehicles thus exempted,
8 which plates except plates on Iowa highway-safety state patrol
9 vehicles shall bear the word "official" and the department
10 shall keep a separate record. Registration plates issued for
11 Iowa highway-safety state patrol vehicles, except unmarked
12 patrol vehicles, shall bear two red stars on a yellow
13 background, one before and one following the registration
14 number on the plate, which registration number shall be the
15 officer's badge number. Registration plates issued for a
16 county sheriff's patrol vehicles shall display one seven-
17 pointed gold star followed by the letter "S" and the call
18 number of the vehicle. However, the director of general
19 services or the director of transportation may order the
20 issuance of regular registration plates for any exempted
21 vehicle used by peace officers in the enforcement of the law,
22 persons enforcing chapter 124 and other laws relating to
23 controlled substances, persons in the department of justice,
24 the alcoholic beverages division of the department of
25 commerce, the department of inspections and appeals, and the
26 department of revenue and finance, who are regularly assigned
27 to conduct investigations which cannot reasonably be conducted
28 with a vehicle displaying "official" state registration
29 plates, and persons in the lottery division of the department
30 of revenue and finance whose regularly assigned duties
31 relating to security or the carrying of lottery tickets cannot
32 reasonably be conducted with a vehicle displaying "official"
33 registration plates. For purposes of sale of exempted
34 vehicles, the exempted governmental body, upon the sale of the
35 exempted vehicle, may issue for in-transit purposes a

1 pasteboard card bearing the words "Vehicle in Transit", the
2 name of the official body from which the vehicle was
3 purchased, together with the date of the purchase plainly
4 marked in at least one-inch letters, and other information
5 required by the department. The in-transit card is valid for
6 use only within forty-eight hours after the purchase date as
7 indicated on the bill of sale which shall be carried by the
8 driver.

9 Sec. 21. Section 321.89, subsection 1, paragraph c, Code
10 1997, is amended to read as follows:

11 c. "Police authority" means the Iowa highway-safety state
12 patrol, any law enforcement agency of a county or city, or any
13 special security officer employed by the state board of
14 regents under section 262.13.

15 Sec. 22. Section 321.266, subsections 1 and 4, Code
16 Supplement 1997, are amended to read as follows:

17 1. The driver of a vehicle involved in an accident
18 resulting in injury to or death of any person shall
19 immediately by the quickest means of communication give notice
20 of such accident to the sheriff of the county in which said
21 accident occurred, or the nearest office of the Iowa highway
22 safety state patrol, or to any other peace officer as near as
23 practicable to the place where the accident occurred.

24 4. Notwithstanding section 455B.386, a carrier
25 transporting hazardous material upon a public highway in this
26 state, in the case of an accident involving the transportation
27 of the hazardous material, shall immediately notify the police
28 radio broadcasting system established pursuant to section
29 693.1 or shall notify a peace officer of the county or city in
30 which the accident occurs. When a local law enforcement
31 agency is informed of the accident, the agency shall notify
32 the Iowa highway-safety state patrol and the state department
33 of transportation office of motor vehicle enforcement. A
34 person who violates a provision of this subsection is guilty
35 of a serious misdemeanor.

1 Sec. 23. Section 321.380, Code 1997, is amended to read as
2 follows:

3 321.380 ENFORCEMENT.

4 It shall be the duty of all peace officers and of the
5 highway-safety Iowa state patrol to enforce the provisions of
6 sections 321.372 to 321.379.

7 Sec. 24. Section 321.457, subsection 3, Code 1997, is
8 amended to read as follows:

9 3. Fire fighting apparatus and vehicles operated during
10 daylight hours when transporting poles, pipe, machinery, or
11 other objects of a structural nature which cannot be readily
12 disassembled when required for emergency repair of public
13 service facilities or properties are not subject to the
14 limitations on overall length of vehicles and combinations of
15 vehicles imposed under this section. However, for operation
16 during nighttime hours, these vehicles and the load being
17 transported shall be equipped with a sufficient number of
18 clearance lamps on both sides and marker lamps at the extreme
19 ends of the projecting load to clearly mark the dimensions of
20 the load. A member of the Iowa state highway-safety patrol
21 shall also be notified prior to the operation of the vehicle.

22 Sec. 25. Section 321G.18, Code 1997, is amended to read as
23 follows:

24 321G.18 NEGLIGENCE.

25 The owner and operator of an all-terrain vehicle or
26 snowmobile ~~is~~ are liable for any injury or damage occasioned
27 by the negligent operation of the all-terrain vehicle or
28 snowmobile.

29 Sec. 26. Section 321J.1, subsection 7, paragraph a, Code
30 1997, is amended to read as follows:

31 a. A member of the highway Iowa state patrol.

32 Sec. 27. Section 331.907, subsection 1, Code 1997, is
33 amended to read as follows:

34 1. The annual compensation of the auditor, treasurer,
35 recorder, sheriff, county attorney, and supervisors shall be

1 determined as provided in this section. The county
2 compensation board annually shall review the compensation paid
3 to comparable officers in other counties of this state, other
4 states, private enterprise, and the federal government. In
5 setting the salary of the county sheriff, the county
6 compensation board shall consider setting the sheriff's salary
7 so that it is comparable to salaries paid to professional law
8 enforcement administrators and command officers of the Iowa
9 highway-safety state patrol, the division of criminal
10 investigation of the department of public safety, and city
11 police agencies in this state. The county compensation board
12 shall prepare a compensation schedule for the elective county
13 officers for the succeeding fiscal year. A recommended
14 compensation schedule requires a majority vote of the
15 membership of the county compensation board.

16 Sec. 28. Section 452A.76, unnumbered paragraph 1, Code
17 1997, is amended to read as follows:

18 Authority to enforce division III is given to the state
19 department of transportation. Employees of the department of
20 transportation designated enforcement employees have the power
21 of peace officers in the performance of their duties; however,
22 they shall not be considered members of the Iowa highway
23 safety state patrol. The department of transportation shall
24 furnish enforcement employees with necessary equipment and
25 supplies in the same manner as provided in section 80.18,
26 including uniforms which are distinguishable in color and
27 design from those of the Iowa highway-safety state patrol.
28 Enforcement employees shall be furnished and shall
29 conspicuously display badges of authority.

30 Sec. 29. Section 529.1, subsections 2, 9, and 11, Code
31 1997, are amended to read as follows:

32 2. "Check cashing" means exchanging for compensation a
33 check, draft, money order, traveler's check, or a payment
34 instrument of a licensee money transmitter for money delivered
35 to the presenter at the time and place of the presentation.

1 9. "Money transmitter" means a person who is located or
2 doing business in this state, including a check ~~cashier~~ casher
3 and a foreign money exchanger, and who does any of the
4 following:

5 a. Sells or issues payment instruments.

6 b. Conducts the business of receiving money for the
7 transmission of or transmitting money.

8 c. Conducts the business of exchanging payment instruments
9 or money into any form of money or payment instrument.

10 d. Conducts the business of receiving money for obligors
11 for the purpose of paying obligors' bills, invoices, or
12 accounts.

13 e. Meets the definition of a bank, financial agency, or
14 financial institution as prescribed by 31 U.S.C. § 5312 or 31
15 C.F.R. § 103.11 and any successor provisions.

16 11. "Proceeds" means property acquired or derived directly
17 or indirectly from, produced through, realized through, or
18 caused by an act or omission and includes any property of any
19 kind.

20 11A. "Property" means anything of value, and includes any
21 interest in property, including any benefit, privilege, claim,
22 or right with respect to anything of value, whether real or
23 personal, tangible or intangible, without reduction for
24 expenses incurred for acquisition, maintenance, production, or
25 any other purpose.

26 Sec. 30. Section 529.2, subsection 6, paragraph b, Code
27 1997, is amended to read as follows:

28 b. With the intent to disguise the fact that money or a
29 payment instrument is the proceeds of criminal conduct, or
30 with intent to promote, manage, establish, carry on, or
31 facilitate the promotion, management, establishment, or
32 carrying on of any criminal conduct, or with intent to evade
33 the making or filing of a report required under this chapter,
34 or with intent to cause the making or filing of a report that
35 contains a material omission or misstatement of fact, ~~or-with~~

1 intent to conduct or structure a transaction or series of
2 transactions by or through one or more licensees, authorized
3 delegates, money transmitters, financial institutions, or
4 persons engaged in a trade or business.

5 Sec. 31. Section 706A.2, subsection 3, Code 1997, is
6 amended to read as follows:

7 3. MONEY LAUNDERING. It is unlawful for a person to
8 commit money laundering ~~as defined~~ in violation of chapter
9 706B.

10 Sec. 32. Section 706A.3, subsection 8, paragraph b, Code
11 1997, is amended to read as follows:

12 b. For the purposes of this subsection:

13 (1) "Agent" means any officer, director, or employee of
14 the legal entity, or any other person who is authorized to act
15 in behalf of the legal entity.

16 (2) "High managerial agent" means any officer of the legal
17 entity or, in the case of a partnership, a partner, or any
18 other agent in a position of comparable authority with respect
19 to the formulation of policy of the legal entity.

20 †3† 8A. Notwithstanding any other provision of law, any
21 pleading, motion, or other paper filed by a nongovernmental
22 aggrieved party in connection with a proceeding or action
23 under subsection 7 shall be verified. If such aggrieved
24 person is represented by an attorney, such pleading, motion,
25 or other paper shall be signed by at least one attorney of
26 record in the attorney's individual name, whose address shall
27 be stated.

28 If such pleading, motion, or other paper includes an
29 averment of fraud, coercion, accomplice, respondent superior,
30 conspiratorial, enterprise, or other vicarious accountability,
31 it shall state, insofar as practicable, the circumstances with
32 particularity. The verification and the signature by an
33 attorney required by this subsection shall constitute a
34 certification by the signer that the attorney has carefully
35 read the pleading, motion, or other paper and, based on a

1 reasonable inquiry, believes that all of the following exist:

2 (a) a. It is well grounded in fact.

3 (b) b. It is warranted by existing law, or a good faith
4 argument for the extension, modification, or reversal of
5 existing law.

6 (c) c. It is not made for an improper purpose, including
7 to harass, to cause unnecessary delay, or to impose a needless
8 increase in the cost of litigation.

9 The court may, after a hearing and appropriate findings of
10 fact, impose upon any person who verified the complaint,
11 cross-claim, or counterclaim, or any attorney who signed it in
12 violation of this subsection, or both, a fit and proper
13 sanction, which may include an order to pay to the other party
14 or parties the amount of the reasonable expenses incurred
15 because of the complaint or claim, including reasonable
16 attorney fees. If the court determines that the filing of a
17 complaint or claim under subsection 7 by a nongovernmental
18 party was frivolous in whole or in part, the court shall award
19 double the actual expenses, including attorney fees, incurred
20 because of the frivolous portion of the complaint or claim.

21 Sec. 33. Section 706B.2, subsection 1, unnumbered
22 paragraph 1, Code 1997, is amended to read as follows:

23 It is unlawful for a person to ~~do~~ commit money laundering
24 by doing any of the following:

25 Sec. 34. Section 706B.2, subsection 2, Code 1997, is
26 amended to read as follows:

27 2. A person who violates:

28 a. Subsection 1, paragraph "a", "b", or "c", commits a
29 class "C" felony, and may be fined not more than ten thousand
30 dollars or twice the value of the property involved, whichever
31 is greater, or ~~by imprisonment~~ be imprisoned for not more than
32 ten years, or both.

33 b. Subsection 1, paragraph "d", commits a class "D"
34 felony, and may be fined not more than seven thousand five
35 hundred dollars or twice the value of the property involved,

1 whichever is greater, or by-imprisonment be imprisoned for not
2 more than five years, or both.

3 Sec. 35. Section 809A.1, subsection 1, Code 1997, is
4 amended by striking the subsection.

5 Sec. 36. Section 809A.1, subsection 4, Code 1997, is
6 amended to read as follows:

7 4. "Owner" means a person, other than an interest holder,
8 who has an interest in property. A person who holds property
9 for the benefit of or ~~for~~ as an agent or nominee for another
10 person, or who is not in substantial compliance with any
11 statute requiring an interest in property to be recorded or
12 reflected in public records in order to perfect the interest
13 against a good faith purchaser for value, is not an owner.

14 Sec. 37. Section 809A.4, subsection 5, Code 1997, is
15 amended to read as follows:

16 5. Any interest or security in, claim against, or property
17 or contractual right of any kind affording a source of control
18 over any enterprise that a person has established, operated,
19 controlled, ~~or conducted through~~, or participated in the
20 conduct; or through conduct giving rise to forfeiture.

21 Sec. 38. Section 809A.4, subsection 6, paragraph a,
22 unnumbered paragraph 1, Code 1997, is amended to read as
23 follows:

24 Any property of a person up to the value of property of
25 which is either of the following:

26 Sec. 39. Section 809A.18, subsection 1, Code 1997, is
27 amended to read as follows:

28 1. A prosecuting attorney may conduct an investigation of
29 any conduct that gives rise to forfeiture. The prosecuting
30 attorney is authorized, before the commencement of a
31 proceeding or action under this chapter, to subpoena
32 witnesses, and compel their attendance, examine them under
33 oath, and require the production of documentary evidence for
34 inspection, reproducing, or copying. Except as otherwise
35 provided by this section, the prosecuting attorney shall

1 proceed under this subsection with the same powers and
2 limitations, and judicial oversight and enforcement, and in
3 the manner provided by this chapter and by the Iowa rules of
4 civil procedure. Any person compelled to appear under a
5 demand for oral testimony under this section may be
6 accompanied, represented, and advised by counsel.

*pg
Kid*

- *7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

SENATE FILE 2136

H-8264

1 Amend Senate File 2136, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Sec. _____. Section 96.13, subsection 3, paragraph
6 b, Code 1997, is amended to read as follows:

7 b. The department shall annually report to the
8 joint ~~regulations~~ economic development appropriations
9 subcommittee on its plans for expenditures during the
10 next state fiscal year from the special employment
11 security contingency fund. The report shall describe
12 the specific expenditures and explain why the
13 expenditures are to be made from the fund and not from
14 federal administrative funds."

15 2. Page 14, by inserting after line 4 the
16 following:

17 "Sec. _____. Section 600B.41A, subsection 3,
18 paragraph e, subparagraph (1), Code Supplement 1997,
19 is amended to read as follows:

20 (1) Unless otherwise specified pursuant to
21 subsection 2 or 8 9, blood or genetic testing shall be
22 conducted in an action to overcome the establishment
23 of paternity."

24 3. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
LAMBERTI of Polk, Chairperson

H-8264 FILED MARCH 5, 1998

Adopted 3/23/98 (p. 840)

HOUSE AMENDMENT TO
SENATE FILE 2136

S-5298

1 Amend Senate File 2136, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Sec. _____. Section 96.13, subsection 3, paragraph
6 b, Code 1997, is amended to read as follows:

7 b. The department shall annually report to the
8 joint ~~regulations~~ economic development appropriations
9 subcommittee on its plans for expenditures during the
10 next state fiscal year from the special employment
11 security contingency fund. The report shall describe
12 the specific expenditures and explain why the
13 expenditures are to be made from the fund and not from
14 federal administrative funds."

15 2. Page 14, by inserting after line 4 the
16 following:

17 "Sec. _____. Section 600B.41A, subsection 3,
18 paragraph e, subparagraph (1), Code Supplement 1997,
19 is amended to read as follows:

20 (1) Unless otherwise specified pursuant to
21 subsection 2 or 8 9, blood or genetic testing shall be
22 conducted in an action to overcome the establishment
23 of paternity."

24 3. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5298 FILED MARCH 23, 1998

Senate Concurred 3/30/98 (p. 940)

Neuhouser
Boutger
Angelo

SSB-2044
Judiciary
Succeeded By
SF/HF 2136

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MCKEAN)

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

A BILL FOR

1 An Act relating to statutory corrections which may adjust
2 language to reflect current practices, insert earlier
3 omissions, delete redundancies and inaccuracies, delete
4 temporary language, resolve inconsistencies and conflicts,
5 update ongoing provisions, or remove ambiguities, and
6 providing effective and retroactive applicability dates.

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

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

1 Section 1: Section 321G.18, Code 1997, is amended to read
2 as follows:

3 321G.18 NEGLIGENCE.

4 The owner and operator of an all-terrain vehicle or
5 snowmobile ~~is~~ are liable for any injury or damage occasioned
6 by the negligent operation of the all-terrain vehicle or
7 snowmobile.

8 Sec. 2. Section 529.1, subsections 2, 9, and 11, Code
9 1997, are amended to read as follows:

10 2. "Check cashing" means exchanging for compensation a
11 check, draft, money order, traveler's check, or a payment
12 instrument of a ~~licensee~~ money transmitter for money delivered
13 to the presenter at the time and place of the presentation.

14 9. "Money transmitter" means a person who is located or
15 doing business in this state, including a check ~~cashier~~ cashier
16 and a foreign money exchanger, and who does any of the
17 following:

18 a. Sells or issues payment instruments.

19 b. Conducts the business of receiving money for the
20 transmission of or transmitting money.

21 c. Conducts the business of exchanging payment instruments
22 or money into any form of money or payment instrument.

23 d. Conducts the business of receiving money for obligors
24 for the purpose of paying obligors' bills, invoices, or
25 accounts.

26 e. Meets the definition of a bank, financial agency, or
27 financial institution as prescribed by 31 U.S.C. § 5312 or 31
28 C.F.R. § 103.11 and any successor provisions.

29 11. "Proceeds" means property acquired or derived directly
30 or indirectly from, produced through, realized through, or
31 caused by an act or omission and includes any property of any
32 kind.

33 11A. "Property" means anything of value, and includes any
34 interest in property, including any benefit, privilege, claim,
35 or right with respect to anything of value, whether real or

1 personal, tangible or intangible, without reduction for
2 expenses incurred for acquisition, maintenance, production, or
3 any other purpose.

4 Sec. 3. Section 529.2, subsection 6, paragraph b, Code
5 1997, is amended to read as follows:

6 b. With the intent to disguise the fact that money or a
7 payment instrument is the proceeds of criminal conduct, or
8 with intent to promote, manage, establish, carry on, or
9 facilitate the promotion, management, establishment, or
10 carrying on of any criminal conduct, or with intent to evade
11 the making or filing of a report required under this chapter,
12 or with intent to cause the making or filing of a report that
13 contains a material omission or misstatement of fact, ~~or-with~~
14 ~~intent~~ to conduct or structure a transaction or series of
15 transactions by or through one or more licensees, authorized
16 delegates, money transmitters, financial institutions, or
17 persons engaged in a trade or business.

18 Sec. 4. Section 706A.2, subsection 3, Code 1997, is
19 amended to read as follows:

20 3. MONEY LAUNDERING. It is unlawful for a person to
21 commit money laundering ~~as-defined~~ in violation of chapter
22 706B.

23 Sec. 5. Section 706A.3, subsection 8, paragraph b, Code
24 1997, is amended to read as follows:

25 b. For the purposes of this subsection:

26 (1) "Agent" means any officer, director, or employee of
27 the legal entity, or any other person who is authorized to act
28 in behalf of the legal entity.

29 (2) "High managerial agent" means any officer of the legal
30 entity or, in the case of a partnership, a partner, or any
31 other agent in a position of comparable authority with respect
32 to the formulation of policy of the legal entity.

33 {3} 8A. Notwithstanding any other provision of law, any
34 pleading, motion, or other paper filed by a nongovernmental
35 aggrieved party in connection with a proceeding or action

1 under subsection 7 shall be verified. If such aggrieved
2 person is represented by an attorney, such pleading, motion,
3 or other paper shall be signed by at least one attorney of
4 record in the attorney's individual name, whose address shall
5 be stated.

6 If such pleading, motion, or other paper includes an
7 averment of fraud, coercion, accomplice, respondent superior,
8 conspiratorial, enterprise, or other vicarious accountability,
9 it shall state, insofar as practicable, the circumstances with
10 particularity. The verification and the signature by an
11 attorney required by this subsection shall constitute a
12 certification by the signer that the attorney has carefully
13 read the pleading, motion, or other paper and, based on a
14 reasonable inquiry, believes that all of the following exist:

15 (a) a. It is well grounded in fact.

16 (b) b. It is warranted by existing law, or a good faith
17 argument for the extension, modification, or reversal of
18 existing law.

19 (c) c. It is not made for an improper purpose, including
20 to harass, to cause unnecessary delay, or to impose a needless
21 increase in the cost of litigation.

22 The court may, after a hearing and appropriate findings of
23 fact, impose upon any person who verified the complaint,
24 cross-claim, or counterclaim, or any attorney who signed it in
25 violation of this subsection, or both, a fit and proper
26 sanction, which may include an order to pay to the other party
27 or parties the amount of the reasonable expenses incurred
28 because of the complaint or claim, including reasonable
29 attorney fees. If the court determines that the filing of a
30 complaint or claim under subsection 7 by a nongovernmental
31 party was frivolous in whole or in part, the court shall award
32 double the actual expenses, including attorney fees, incurred
33 because of the frivolous portion of the complaint or claim.

34 Sec. 6. Section 706B.2, subsection 1, unnumbered paragraph
35 1, Code 1997, is amended to read as follows:

1 It is unlawful for a person to ~~do~~ commit money laundering
2 by doing any of the following:

3 Sec. 7. Section 706B.2, subsection 2, Code 1997, is
4 amended to read as follows:

5 2. A person who violates:

6 a. Subsection 1, paragraph "a", "b", or "c", commits a
7 class "C" felony, and may be fined not more than ten thousand
8 dollars or twice the value of the property involved, whichever
9 is greater, or ~~by-imprisonment~~ be imprisoned for not more than
10 ten years, or both.

11 b. Subsection 1, paragraph "d", commits a class "D"
12 felony, and may be fined not more than seven thousand five
13 hundred dollars or twice the value of the property involved,
14 whichever is greater, or ~~by-imprisonment~~ be imprisoned for not
15 more than five years, or both.

16 Sec. 8. Section 809A.1, subsection 1, Code 1997, is
17 amended by striking the subsection.

18 Sec. 9. Section 809A.1, subsection 4, Code 1997, is
19 amended to read as follows:

20 4. "Owner" means a person, other than an interest holder,
21 who has an interest in property. A person who holds property
22 for the benefit of or ~~for~~ as an agent or nominee for another
23 person, or who is not in substantial compliance with any
24 statute requiring an interest in property to be recorded or
25 reflected in public records in order to perfect the interest
26 against a good faith purchaser for value, is not an owner.

27 Sec. 10. Section 809A.4, subsection 5, Code 1997, is
28 amended to read as follows:

29 5. Any interest or security in, claim against, or property
30 or contractual right of any kind affording a source of control
31 over any enterprise that a person has established, operated,
32 controlled, or conducted through, or participated in the
33 conduct, or through conduct giving rise to forfeiture.

34 Sec. 11. Section 809A.4, subsection 6, paragraph a,
35 unnumbered paragraph 1, Code 1997, is amended to read as

1 follows:

2 Any property of a person up to the value of property of
3 which is either of the following:

4 Sec. 12. Section 809A.18, subsection 1, Code 1997, is
5 amended to read as follows:

6 1. A prosecuting attorney may conduct an investigation of
7 any conduct that gives rise to forfeiture. The prosecuting
8 attorney is authorized, before the commencement of a
9 proceeding or action under this chapter, to subpoena
10 witnesses, and compel their attendance, examine them under
11 oath, and require the production of documentary evidence for
12 inspection, reproducing, or copying. Except as otherwise
13 provided by this section, the prosecuting attorney shall
14 proceed under this subsection with the same powers and
15 limitations, and judicial oversight and enforcement, and in
16 the manner provided by this chapter and by the Iowa rules of
17 civil procedure. Any person compelled to appear under a
18 demand for oral testimony under this section may be
19 accompanied, represented, and advised by counsel.

20 Sec. 13. 1994 Iowa Acts, chapter 1072, section 9, as
21 amended by 1995 Iowa Acts, chapter 185, section 46, is
22 repealed.

23 EXPLANATION

24 Code section 321G.18: In the section relating to the
25 liability of owners and operators of all-terrain vehicles and
26 snowmobiles, "is liable" is changed to "are liable" in
27 response to the recent supreme court case Johnson v. Johnson,
28 564 NW2d 414 (Iowa 1996). The court in Johnson concluded that
29 the current "is liable" language is grammatically incorrect
30 and that "is liable" should be read as "are liable".

31 Code sections 529.1(2), (9), and (11), 529.2(6)(b),
32 706A.2(3), 706A.3(8)(b), 706B.2(1), 706B.2(2), 809A.1(1) and
33 (4), 809A.4(5) and (6)(a), and 809A.18(1): In sections
34 relating to economic and other penalties for certain criminal
35 activity, use of defined terms is corrected, incorrect and

1 unused references are stricken and corrected, and grammatical
2 changes are made which are necessary for the application of
3 the sections. In Code section 529.1, the bill provides the
4 correct definition of "proceeds" and applies the previous
5 definition to the term "property". In Code section 529.2,
6 subsection 6, paragraph "b", "or with intent" is stricken
7 preceding "to conduct or structure a transaction", making a
8 grammatical correction in the provision. The Code sections
9 were added in 1996 Iowa Acts, chapter 1133, and were based on
10 model legislation by the president's commission on model state
11 drug laws (1993). The changes in this bill are necessary
12 because some portions of the model laws were not incorporated
13 into the Code, resulting in incorrect references in the
14 portions incorporated into the Code, and some portions of the
15 model laws were incorporated into the Code with grammatical
16 imperfections.

17 1994 Iowa Acts, chapter 1072, section 9, as amended by 1995
18 Iowa Acts, chapter 185, section 46: This section provides an
19 effective date for certain provisions of Code chapter 507E,
20 relating to creation of an insurance fraud bureau, the
21 implementation of which is contingent upon the receipt of a
22 federal grant and the appropriation of matching funds by the
23 general assembly. 1997 Iowa Acts, chapter 211, section 3,
24 subsection 5, appropriated state funds for this purpose, but
25 no federal grant has been made. Therefore, the section
26 providing the contingent effective date is repealed.

27

28

29

30

31

32

33

34

35

SENATE FILE 2136

AN ACT

RELATING TO STATUTORY CORRECTIONS WHICH MAY ADJUST LANGUAGE TO REFLECT CURRENT PRACTICES, INSERT EARLIER OMISSIONS, DELETE REDUNDANCIES AND INACCURACIES, DELETE TEMPORARY LANGUAGE, RESOLVE INCONSISTENCIES AND CONFLICTS, UPDATE ONGOING PROVISIONS, OR REMOVE AMBIGUITIES, AND PROVIDING EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

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

Section 1. Section 19A.3, subsection 13, Code Supplement 1997, is amended to read as follows:

13. Members of the Iowa highway-safety state patrol and other peace officers employed by the department of public safety. The commissioner of public safety shall adopt rules not inconsistent with the objectives of this chapter for the persons described in this subsection.

Sec. 2. Section 29A.79, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The Iowa national guard shall be requested to provide the emergency helicopter ambulance service from its available staffed helicopters when the plan is implemented on order of the governor at the request of the Iowa highway-safety state patrol, or the administrative heads of the hospitals located in Iowa, unless the Iowa national guard does not have a staffed helicopter available or is in active service under the armed forces of the United States.

Sec. 3. Section 80.4, Code 1997, is amended to read as follows:

80.4 HIGHWAY IOWA STATE PATROL.

The Iowa highway-safety state patrol is established in the department of public safety. The patrol shall be under the direction of the commissioner of public safety.

Sec. 4. Section 80.6, Code 1997, is amended to read as follows:

80.6 IMPERSONATING OFFICER -- UNIFORM.

Any person who impersonates a member of the Iowa safety state patrol or other officer or employee of the department, or wears a uniform likely to be confused with the official uniform of any such officer, with intent to deceive anyone, shall be guilty of a simple misdemeanor.

Sec. 5. Section 80.8, unnumbered paragraphs 2 and 3, Code 1997, are amended to read as follows:

The commissioner may delegate to the members of the Iowa highway-safety state patrol such additional duties in the enforcement of this chapter as the commissioner may deem proper and incidental to the duties now imposed upon them by law.

The salaries of all members and employees of the department and the expenses of the department shall be provided for by the legislative appropriation therefor. The compensation of the members of the highway Iowa state patrol shall be fixed according to grades as to rank and length of service by the commissioner with the approval of the governor. The members of the highway Iowa state patrol shall be paid additional compensation in accordance with the following formula: When members of the highway Iowa state patrol have served for a period of five years their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described five-year period; when members thereof have served for a period of ten years their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described ten-year period, such sums being in addition to the increase provided herein to be paid after five years of service; when members thereof have served for a period of fifteen years their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described fifteen-year period, such sums being in addition to the increases previously provided for herein; when members thereof have served for a period of

twenty years their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described twenty-year period, such sums being in addition to the increases previously provided for herein. While on active duty each member shall also receive a flat daily sum as fixed by the commissioner with the approval of the governor for meals while away from the office to which the member has been assigned and within the member's district.

Sec. 6. Section 80.9, subsection 2, paragraph h, Code 1997, is amended to read as follows:

h. To maintain a vehicle theft unit in the Iowa highway safety state patrol to investigate and assist in the examination and identification of stolen, altered, or forfeited vehicles.

Sec. 7. Section 80.15, Code 1997, is amended to read as follows:

80.15 EXAMINATION -- OATH -- PROBATION -- DISCIPLINE -- DISMISSAL.

An applicant for membership in the department of public safety, except clerical workers and special agents appointed under section 80.7, shall not be appointed as a member until the applicant has passed a satisfactory physical and mental examination. In addition, the applicant must be a citizen of the United States and be not less than twenty-two years of age. The mental examination shall be conducted under the direction or supervision of the commissioner of public safety and may be oral or written or both. Each applicant shall take an oath on becoming a member of the force, to uphold the laws and Constitution of the United States and of the state of Iowa. During the period of twelve months after appointment, any member of the department of public safety, except members of the present Iowa highway-safety state patrol who have served more than six months, is subject to dismissal at the will of the commissioner. After the twelve months' service, a member of the department, who was appointed after having passed the examinations, is not subject to dismissal,

suspension, disciplinary demotion, or other disciplinary action resulting in the loss of pay unless charges have been filed with the department of inspections and appeals and a hearing held by the employment appeal board created by section 10A.601, if requested by the member, at which the member has an opportunity to present a defense to the charges. The decision of the appeal board is final, subject to the right of judicial review in accordance with the terms of the Iowa administrative procedure Act. However, these procedures as to dismissal, suspension, demotion, or other discipline do not apply to a member who is covered by a collective bargaining agreement which provides otherwise nor to the demotion of a division head to the rank which the division head held at the time of appointment as division head, if any. A division head who is demoted has the right to return to the rank which the division head held at the time of appointment as division head, if any. All rules, except employment provisions negotiated pursuant to chapter 20, regarding the enlistment, appointment, and employment affecting the personnel of the department shall be established by the commissioner in consultation with the director of the department of personnel, subject to approval by the governor.

Sec. 8. Section 80.17, subsection 4, Code 1997, is amended to read as follows:

4. Division of highway-safety-and-uniformed-force the Iowa state patrol.

Sec. 9. Section 85.61, subsection 11, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

"Worker" or "employee" means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer; an executive officer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the employer; an official elected or appointed by the state, or a county, school district, area education agency, municipal corporation, or

city under any form of government; a member of the Iowa highway-safety state patrol; a conservation officer; and a proprietor, limited liability company member, or partner who elects to be covered pursuant to section 85.1A, except as specified in this chapter.

Sec. 10. Section 96.13, subsection 3, paragraph b, Code 1997, is amended to read as follows:

b. The department shall annually report to the joint regulations economic development appropriations subcommittee on its plans for expenditures during the next state fiscal year from the special employment security contingency fund. The report shall describe the specific expenditures and explain why the expenditures are to be made from the fund and not from federal administrative funds.

Sec. 11. Section 97A.1, subsection 13, Code 1997, is amended to read as follows:

13. "Peace officer" or "peace officers" shall mean all members of the divisions of ~~highway-safety-and-uniformed-force~~ the Iowa state patrol and criminal investigation and bureau of identification in the department of public safety, except clerical workers, including but not limited to gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, who have passed a satisfactory physical and mental examination and have been duly appointed as members of the state department of public safety in accordance with section 80.15, and the division of drug law enforcement, and arson investigators and fire prevention inspector peace officers in the department of public safety, except clerical workers, employees of the division of capitol police, except clerical workers, and the division of beer and liquor law enforcement of the department of public safety, except clerical workers.

Sec. 12. Section 97A.4, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Any member of the system who has been employed continuously prior to the passage of this chapter in the division of ~~highway-safety, uniformed-force, and radio-communications~~ the

Iowa state patrol or the division of criminal investigation and bureau of identification in the department of public safety, or as a member of the Iowa highway-safety state patrol, or as a peace officer or a member of the uniformed force in any department or division whose functions were transferred to, merged, or consolidated in the department of public safety at the time such department was created, shall receive credit for such service in determining retirement and disability benefits provided for in this chapter. Arson investigators who have contributed to this system prior to July 1, 1978 shall receive credit for such service in determining retirement and disability benefits.

Sec. 13. Section 97A.6, subsection 8, paragraph b, Code 1997, is amended to read as follows:

b. In lieu of the payment specified in paragraph "a," a beneficiary meeting the qualifications of paragraph "c" may elect to receive a monthly pension equal to one-twelfth of forty percent of the average final compensation of the member, but not less than an amount equal to twenty percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the Iowa highway-safety state patrol if the member was in service at the time of death. For a member not in service at the time of death, the pension shall be reduced as provided in subsection 1, paragraph "b".

For a member not in service at the time of death, the pension shall be paid commencing when the member would have attained the age of fifty-five except that if there is a child of the member, the pension shall be paid commencing with the member's death until the children reach the age of eighteen, or twenty-two if applicable. The pension shall resume commencing when the member would have attained the age of fifty-five.

For a member in service at the time of death, the pension shall be paid commencing with the member's death. In addition to the pension, there shall also be paid for each child of a member, a monthly pension equal to six percent of the monthly

earnable compensation payable to an active member having the rank of senior patrol officer of the Iowa highway-safety state patrol.

For the purpose of this chapter, a senior patrol officer is a person who has completed ten years of service in the Iowa highway-safety state patrol.

Notwithstanding section 97A.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to the higher of one-twelfth of forty percent of the average final compensation of the member, or the amount the surviving spouse was receiving on July 1, 1990.

Sec. 14. Section 97A.6, subsection 9, paragraph c, Code 1997, is amended to read as follows:

c. In addition to the benefits for the surviving spouse enumerated in this subsection, there shall also be paid for each child of a member a monthly pension equal to six percent of the monthly earnable compensation payable to an active member having the rank of senior patrol officer of the Iowa highway-safety state patrol.

Sec. 15. Section 97A.6, subsection 12, paragraph a, Code 1997, is amended to read as follows:

a. To the member's surviving spouse, equal to one-half the amount received by the deceased beneficiary, but in no instance less than an amount equal to twenty-five percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the Iowa highway safety state patrol, and in addition a monthly pension equal to the monthly pension payable under subsection 9, paragraph "c", of this section for each child under eighteen years of age or twenty-two years of age if applicable; or

Sec. 16. Section 97A.6, subsection 14, paragraph a, unnumbered paragraph 4, Code 1997, is amended to read as follows:

As of the first of July of each year, the monthly pension payable to each surviving child under the provisions of

subsections 8, 9 and 12 of this section shall be adjusted to equal six percent of the monthly earnable compensation payable on that July 1 to an active member having the rank of senior patrol officer of the Iowa highway-safety state patrol.

Sec. 17. Section 101A.10, Code 1997, is amended to read as follows:

101A.10 PERSONS AND AGENCIES EXEMPT.

This chapter shall not apply to the transportation and use of explosive materials by the regular military or naval forces of the United States, the duly organized militia of this state, representatives of the state fire marshal, the Iowa highway-safety state patrol, division of criminal investigation and bureau of identification, local police departments, sheriffs departments, and fire departments acting in their official capacity; nor shall this chapter apply to the transportation and use of explosive materials by any peace officer to enforce provisions of this chapter when the peace officer is acting pursuant to such authority, however, other agencies of the state or any of its political subdivisions desiring to purchase, possess, transport, or use explosive materials for construction or other purposes shall be required to obtain user's permits.

Sec. 18. Section 172B.1, subsection 1, Code 1997, is amended to read as follows:

1. "Law enforcement officer" means a an Iowa state highway safety patrol officer, a sheriff, or other peace officer so designated by this state or by a county or municipality.

Sec. 19. Section 307.12, subsection 13, Code 1997, is amended to read as follows:

13. Adopt, after consultation with the department of natural resources and the department of public safety, rules relating to enforcement of the rules regarding transportation of hazardous wastes adopted by the department of natural resources. The department and the division of the highway safety Iowa state patrol of the department of public safety shall carry out the enforcement of the rules.

Sec. 20. Section 321.2, unnumbered paragraph 2, Code 1997, is amended to read as follows:

The division of the highway-safety Iowa state patrol of the department of public safety shall enforce the provisions of this chapter relating to traffic on the public highways of the state, including those relating to the safe and legal operation of passenger cars, motorcycles, motor trucks and buses, and to see that proper safety rules are observed.

Sec. 21. Section 321.19, subsection 1, unnumbered paragraph 2, Code Supplement 1997, is amended to read as follows:

The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa highway-safety state patrol vehicles shall bear the word "official" and the department shall keep a separate record. Registration plates issued for Iowa highway-safety state patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate, which registration number shall be the officer's badge number. Registration plates issued for a county sheriff's patrol vehicles shall display one seven-pointed gold star followed by the letter "S" and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law, persons enforcing chapter 124 and other laws relating to controlled substances, persons in the department of justice, the alcoholic beverages division of the department of commerce, the department of inspections and appeals, and the department of revenue and finance, who are regularly assigned to conduct investigations which cannot reasonably be conducted with a vehicle displaying "official" state registration plates, and persons in the lottery division of the department of revenue and finance whose regularly assigned duties relating to security or the carrying of lottery tickets cannot

reasonably be conducted with a vehicle displaying "official" registration plates. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit", the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information required by the department. The in-transit card is valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 22. Section 321.89, subsection 1, paragraph c, Code 1997, is amended to read as follows:

c. "Police authority" means the Iowa highway-safety state patrol, any law enforcement agency of a county or city, or any special security officer employed by the state board of regents under section 262.13.

Sec. 23. Section 321.266, subsections 1 and 4, Code Supplement 1997, are amended to read as follows:

1. The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately by the quickest means of communication give notice of such accident to the sheriff of the county in which said accident occurred, or the nearest office of the Iowa highway safety state patrol, or to any other peace officer as near as practicable to the place where the accident occurred.

4. Notwithstanding section 455B.386, a carrier transporting hazardous material upon a public highway in this state, in the case of an accident involving the transportation of the hazardous material, shall immediately notify the police radio broadcasting system established pursuant to section 693.1 or shall notify a peace officer of the county or city in which the accident occurs. When a local law enforcement agency is informed of the accident, the agency shall notify the Iowa highway-safety state patrol and the state department of transportation office of motor vehicle enforcement. A

person who violates a provision of this subsection is guilty of a serious misdemeanor.

Sec. 24. Section 321.380, Code 1997, is amended to read as follows:

321.380 ENFORCEMENT.

It shall be the duty of all peace officers and of the highway-safety Iowa state patrol to enforce the provisions of sections 321.372 to 321.379.

Sec. 25. Section 321.457, subsection 3, Code 1997, is amended to read as follows:

3. Fire fighting apparatus and vehicles operated during daylight hours when transporting poles, pipe, machinery, or other objects of a structural nature which cannot be readily disassembled when required for emergency repair of public service facilities or properties are not subject to the limitations on overall length of vehicles and combinations of vehicles imposed under this section. However, for operation during nighttime hours, these vehicles and the load being transported shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps at the extreme ends of the projecting load to clearly mark the dimensions of the load. A member of the Iowa state highway-safety patrol shall also be notified prior to the operation of the vehicle.

Sec. 26. Section 321G.18, Code 1997, is amended to read as follows:

321G.18 NEGLIGENCE.

The owner and operator of an all-terrain vehicle or snowmobile ~~is~~ are liable for any injury or damage occasioned by the negligent operation of the all-terrain vehicle or snowmobile.

Sec. 27. Section 321J.1, subsection 7, paragraph a, Code 1997, is amended to read as follows:

a. A member of the highway Iowa state patrol.

Sec. 28. Section 331.907, subsection 1, Code 1997, is amended to read as follows:

1. The annual compensation of the auditor, treasurer, recorder, sheriff, county attorney, and supervisors shall be

determined as provided in this section. The county compensation board annually shall review the compensation paid to comparable officers in other counties of this state, other states, private enterprise, and the federal government. In setting the salary of the county sheriff, the county compensation board shall consider setting the sheriff's salary so that it is comparable to salaries paid to professional law enforcement administrators and command officers of the Iowa highway-safety state patrol, the division of criminal investigation of the department of public safety, and city police agencies in this state. The county compensation board shall prepare a compensation schedule for the elective county officers for the succeeding fiscal year. A recommended compensation schedule requires a majority vote of the membership of the county compensation board.

Sec. 29. Section 452A.76, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Authority to enforce division III is given to the state department of transportation. Employees of the department of transportation designated enforcement employees have the power of peace officers in the performance of their duties; however, they shall not be considered members of the Iowa highway safety state patrol. The department of transportation shall furnish enforcement employees with necessary equipment and supplies in the same manner as provided in section 80.18, including uniforms which are distinguishable in color and design from those of the Iowa highway-safety state patrol. Enforcement employees shall be furnished and shall conspicuously display badges of authority.

Sec. 30. Section 529.1, subsections 2, 9, and 11, Code 1997, are amended to read as follows:

2. "Check cashing" means exchanging for compensation a check, draft, money order, traveler's check, or a payment instrument of a licensee money transmitter for money delivered to the presenter at the time and place of the presentation.

9. "Money transmitter" means a person who is located or doing business in this state, including a check cashier casher

and a foreign money exchanger, and who does any of the following:

- a. Sells or issues payment instruments.
- b. Conducts the business of receiving money for the transmission of or transmitting money.
- c. Conducts the business of exchanging payment instruments or money into any form of money or payment instrument.
- d. Conducts the business of receiving money for obligors for the purpose of paying obligors' bills, invoices, or accounts.
- e. Meets the definition of a bank, financial agency, or financial institution as prescribed by 31 U.S.C. § 5312 or 31 C.F.R. § 103.11 and any successor provisions.

11. "Proceeds" means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind.

11A. "Property" means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible, without reduction for expenses incurred for acquisition, maintenance, production, or any other purpose.

Sec. 31. Section 529.2, subsection 6, paragraph b, Code 1997, is amended to read as follows:

b. With the intent to disguise the fact that money or a payment instrument is the proceeds of criminal conduct, or with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal conduct, or with intent to evade the making or filing of a report required under this chapter, or with intent to cause the making or filing of a report that contains a material omission or misstatement of fact, or with intent to conduct or structure a transaction or series of transactions by or through one or more licensees, authorized delegates, money transmitters, financial institutions, or persons engaged in a trade or business.

Sec. 32. Section 600B.41A, subsection 3, paragraph e, subparagraph (1), Code Supplement 1997, is amended to read as follows:

(1) Unless otherwise specified pursuant to subsection 2 or 8 9, blood or genetic testing shall be conducted in an action to overcome the establishment of paternity.

Sec. 33. Section 706A.2, subsection 3, Code 1997, is amended to read as follows:

3. MONEY LAUNDERING. It is unlawful for a person to commit money laundering as defined in violation of chapter 706B.

Sec. 34. Section 706A.3, subsection 8, paragraph b, Code 1997, is amended to read as follows:

b. For the purposes of this subsection:

(1) "Agent" means any officer, director, or employee of the legal entity, or any other person who is authorized to act in behalf of the legal entity.

(2) "High managerial agent" means any officer of the legal entity or, in the case of a partnership, a partner, or any other agent in a position of comparable authority with respect to the formulation of policy of the legal entity.

{3} 8A. Notwithstanding any other provision of law, any pleading, motion, or other paper filed by a nongovernmental aggrieved party in connection with a proceeding or action under subsection 7 shall be verified. If such aggrieved person is represented by an attorney, such pleading, motion, or other paper shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated.

If such pleading, motion, or other paper includes an averment of fraud, coercion, accomplice, respondent superior, conspiratorial, enterprise, or other vicarious accountability, it shall state, insofar as practicable, the circumstances with particularity. The verification and the signature by an attorney required by this subsection shall constitute a certification by the signer that the attorney has carefully read the pleading, motion, or other paper and, based on a reasonable inquiry, believes that all of the following exist:

(a) a. It is well grounded in fact.

(b) b. It is warranted by existing law, or a good faith argument for the extension, modification, or reversal of existing law.

(c) c. It is not made for an improper purpose, including to harass, to cause unnecessary delay, or to impose a needless increase in the cost of litigation.

The court may, after a hearing and appropriate findings of fact, impose upon any person who verified the complaint, cross-claim, or counterclaim, or any attorney who signed it in violation of this subsection, or both, a fit and proper sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the complaint or claim, including reasonable attorney fees. If the court determines that the filing of a complaint or claim under subsection 7 by a nongovernmental party was frivolous in whole or in part, the court shall award double the actual expenses, including attorney fees, incurred because of the frivolous portion of the complaint or claim.

Sec. 35. Section 706B.2, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

It is unlawful for a person to ~~do~~ commit money laundering by doing any of the following:

Sec. 36. Section 706B.2, subsection 2, Code 1997, is amended to read as follows:

2. A person who violates:

a. Subsection 1, paragraph "a", "b", or "c", commits a class "C" felony, and may be fined not more than ten thousand dollars or twice the value of the property involved, whichever is greater, or ~~by imprisonment~~ be imprisoned for not more than ten years, or both.

b. Subsection 1, paragraph "d", commits a class "D" felony, and may be fined not more than seven thousand five hundred dollars or twice the value of the property involved, whichever is greater, or ~~by imprisonment~~ be imprisoned for not more than five years, or both.

Sec. 37. Section 809A.1, subsection 1, Code 1997, is amended by striking the subsection.

Sec. 38. Section 809A.1, subsection 4, Code 1997, is amended to read as follows:

4. "Owner" means a person, other than an interest holder, who has an interest in property. A person who holds property for the benefit of or for as an agent or nominee for another person, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value, is not an owner.

Sec. 39. Section 809A.4, subsection 5, Code 1997, is amended to read as follows:

5. Any interest or security in, claim against, or property or contractual right of any kind affording a source of control over any enterprise that a person has established, operated, controlled, or conducted through, or participated in the conduct, or through conduct giving rise to forfeiture.

Sec. 40. Section 809A.4, subsection 6, paragraph a, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Any property of a person up to the value of property of which is either of the following:

Sec. 41. Section 809A.18, subsection 1, Code 1997, is amended to read as follows:

1. A prosecuting attorney may conduct an investigation of any conduct that gives rise to forfeiture. The prosecuting attorney is authorized, before the commencement of a proceeding or action under this chapter, to subpoena witnesses, and compel their attendance, examine them under oath, and require the production of documentary evidence for inspection, reproducing, or copying. Except as otherwise provided by this section, the prosecuting attorney shall proceed under this subsection with the same powers and limitations, and judicial oversight and enforcement, and in the manner provided by this chapter and by the Iowa rules of civil procedure. Any person compelled to appear under a

demand for oral testimony under this section may be accompanied, represented, and advised by counsel.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2136, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved April 10, 1998

TERRY E. BRANSTAD
Governor

SF 2136