

3-13-97 Judiciary

FILED MAR 12 1997

SENATE FILE 428
BY LUNDBY

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

A BILL FOR

1 An Act relating to payment of costs of performing a chemical test
2 related to arrests for public intoxication.

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

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S.F. 428

1 Section 1. Section 123.46, subsection 3, Code 1997, is
2 amended to read as follows:

3 3. When a peace officer arrests a person on a charge of
4 public intoxication under this section, the peace officer
5 shall inform the person that the person may have a chemical
6 test administered at the person's own expense. If a device
7 approved by the commissioner of public safety for testing a
8 sample of a person's breath to determine the person's blood
9 alcohol concentration is available, that is the only test that
10 need be offered the person arrested. In a prosecution for
11 public intoxication, evidence of the results of a chemical
12 test performed under this subsection is admissible upon proof
13 of a proper foundation. The percentage of alcohol present in
14 a person's blood, breath, or urine established by the results
15 of a chemical test performed within two hours after the
16 person's arrest on a charge of public intoxication is presumed
17 to be the percentage of alcohol present at the time of arrest.
18 If a person who submits to a chemical test under this
19 subsection meets the standards established for indigency under
20 section 815.9, the state shall pay the costs of chemical
21 testing. Any amounts paid by a person under this subsection
22 shall be refunded to the person if the chemical test results
23 do not indicate the presence of alcohol in the test sample
24 provided by the person.

25 EXPLANATION

26 This bill provides that if a person meets the standards
27 established in section 815.9 for indigency in criminal cases,
28 the state will pay the costs of chemical testing under the
29 public intoxication statute. In addition, if a person submits
30 to a chemical test as a result of an arrest or being detained
31 for public intoxication and the test results do not indicate
32 the presence of alcohol in the test sample, the state is to
33 refund any amounts paid by the person.

34 A person is considered indigent under section 815.9 if the
35 person has an income level at or below 150 percent of the

1 United States poverty level as defined in the most recently
2 revised poverty income guidelines published by the United
3 States department of health and human services.

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