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Calendar

FEB 29 2000
Place On Calendar

HOUSE FILE **2511**
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HF 2066)

Passed House, ^(p.719) Date 3-14-00 Passed Senate, ^(p.965) Date 4-3-00
Vote: Ayes 73 Nays 24 Vote: Ayes 49 Nays 0

^(p.1236) Re-passed ^{Approved} 4-5-00 4-21-00
Vote 85-10

A BILL FOR

1 An Act providing that the course for drinking drivers shall be
2 taught by community colleges and licensed substance abuse
3 programs, requiring participation in substance abuse awareness
4 programs by all persons under the age of twenty-one who drive
5 with a blood alcohol concentration level of .02 or more, and
6 making related changes.

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

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HOUSE FILE 2511

H-8733

1 Amend the Senate amendment, H-8692, to House File
2 2511, as passed by the House, as follows:

3 1. By striking page 4, line 31, through page 5,
4 line 34.

5 2. Page 5, by striking lines 39 through 41, and
6 inserting the following: "circumstances, and by
7 providing".

By SHOULTZ of Black Hawk

H-8733 FILED APRIL 5, 2000

Lost 4/5/00 (A 1235)

HF 2511

1 Section 1. Section 321J.22, subsections 2, 4, and 5, Code
2 1999, are amended to read as follows:

3 2. a. The course provided according to this section shall
4 be offered on a regular basis at each community college as
5 defined in section 260C.2, and at substance abuse treatment
6 programs licensed under chapter 125.

7 b. Enrollment in the courses is not limited to persons
8 ordered to enroll, attend, and successfully complete the
9 course required under sections 321J.2 and 321J.17, subsection
10 2.

11 c. The course required by this section shall be: taught

12 (1) Taught by the a community colleges college under the
13 supervision of the department of education and-approved or by
14 a substance abuse treatment program licensed under chapter
15 125.

16 (2) Approved jointly by the department of education and by
17 substance abuse treatment programs licensed under chapter 125.

18 d. The department of education and substance abuse
19 treatment programs licensed under chapter 125 shall each
20 establish reasonable fees to defray the expense of obtaining
21 classroom space, instructor salaries, and class materials.

22 e. A person shall not be denied enrollment in a course by
23 reason of the person's indigency.

24 4. The department of education and substance abuse
25 treatment programs licensed under chapter 125 shall jointly
26 prepare a complete list of the locations of the courses taught
27 under this section, the dates and times taught, the procedure
28 for enrollment, and the schedule of course fees. The list
29 shall be kept current and a copy of the list shall be sent to
30 each court having jurisdiction over offenses provided in this
31 chapter.

32 5. The department of education and substance abuse
33 treatment programs licensed under chapter 125 shall jointly
34 maintain enrollment, attendance, successful and unsuccessful
35 completion data on the persons ordered to enroll, attend, and

1 successfully complete a course for drinking drivers. This
2 data shall be forwarded to the court.

3 Sec. 2. Section 321J.25, subsection 1, paragraph a, Code
4 1999, is amended to read as follows:

5 a. "Participant" means a person whose driver's license or
6 operating privilege has been revoked for a violation of
7 section 321J.2 or 321J.2A.

8 Sec. 3. Section 321J.25, subsection 4, Code 1999, is
9 amended to read as follows:

10 4. Upon the revocation of the driver's license or
11 operating privileges of a person who is ~~fourteen-years-of-age~~
12 ~~or-older~~ under the age of twenty-one for a violation of
13 section 321J.2 or 321J.2A, ~~if-the-person-has-had-no-previous~~
14 ~~revocations-under-either-section-321J.2-or-section-321J.2A,~~ a
15 person ~~may~~ shall participate in the substance abuse awareness
16 program. The state department of transportation shall notify
17 a potential program participant of the possibility and
18 potential benefits of attending a program and shall notify a
19 potential program participant of the availability of programs
20 which exist in the area in which the person resides. The
21 state department of transportation shall consult with the Iowa
22 department of public health to determine what programs are
23 available in various areas of the state.

24 EXPLANATION

25 This bill amends Code section 321J.22, relating to the
26 course for drinking drivers, ordered under Code chapter 321J
27 and Code section 707.6A for operating while intoxicated
28 offenders.

29 The bill permits the course to be taught by substance abuse
30 treatment programs licensed under Code chapter 125, as well as
31 by community colleges. The bill requires the department of
32 education to work with the substance abuse treatment programs
33 in approving the course, creating a list of course times and
34 dates to be supplied to the courts, and maintaining course
35 completion statistics.

1 The bill also requires all persons under the age of 21 who
2 violate Code section 321J.2 or 321J.2A to attend a substance
3 abuse awareness program for youthful offenders provided by
4 providers licensed under Code chapter 125.

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HOUSE FILE 2511

S-5167

- 1 Amend House File 2511, as passed by the House, as
2 follows:
- 3 1. Page 1, line 5, by striking the word "and" and
4 inserting the following: "or".
- 5 2. Page 1, line 6, by inserting after the word
6 and figure "chapter 125." the following: "However, a
7 community college shall not be required to offer the
8 course if a substance abuse treatment program licensed
9 under chapter 125 offers the course within the merged
10 area served by the community college."
- 11 3. Page 1, by striking lines 15 through 17 and
12 inserting the following: "125. The curriculum of a
13 course taught by a substance abuse treatment program
14 licensed under chapter 125 must be submitted to and
15 approved by the department of education."
- 16 4. Page 1, lines 18 and 19 by striking the words
17 "and substance abuse treatment programs licensed under
18 chapter 125".
- 19 5. Page 1, line 19, by striking the word "each".
- 20 6. Page 1, line 33, by striking the word
21 "jointly".
- 22 7. Page 1, line 35, by inserting after the word
23 "data" the following: "for their respective courses".
- 24 8. Page 2, line 2, by inserting after the word
25 "court" the following: "by both the department of
26 education and substance abuse treatment programs
27 licensed under chapter 125".
- 28 9. By renumbering as necessary.

By RICHARD F. DRAKE
JOHN P. KIBBIE

S-5167 FILED MARCH 16, 2000

0/0

4-3-00

(P. 964)

HOUSE FILE 2511

S-5206

1 Amend House File 2511, as passed by the House, as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. Section 321J.22, subsections 2, 4, and
6 5, Code 1999, are amended to read as follows:

7 2. a. The course provided according to this
8 section shall be offered on a regular basis at each
9 community college as defined in section 260C.2, or by
10 substance abuse treatment programs licensed under
11 chapter 125. However, a community college shall not
12 be required to offer the course if a substance abuse
13 treatment program licensed under chapter 125 offers
14 the course within the merged area served by the
15 community college.

16 b. Enrollment in the courses is not limited to
17 persons ordered to enroll, attend, and successfully
18 complete the course required under sections 321J.2 and
19 321J.17, subsection 2. However, any person under age
20 eighteen who is required to attend the courses for
21 violation of section 321J.2 or 321J.17 must attend a
22 course offered by a substance abuse treatment program
23 licensed under chapter 125.

24 c. The course required by this section shall be:
25 taught

26 (1) Taught by the a community colleges college
27 under the supervision of the department of education
28 and approved or by a substance abuse treatment program
29 licensed under chapter 125.

30 (2) Approved by the department of education, in
31 consultation with the community colleges and substance
32 abuse treatment programs licensed under chapter 125.

33 d. The department of education and substance abuse
34 treatment programs licensed under chapter 125 shall
35 each establish reasonable fees to defray the expense
36 of obtaining classroom space, instructor salaries, and
37 class materials.

38 e. A person shall not be denied enrollment in a
39 course by reason of the person's indigency.

40 4. The department of education and substance abuse
41 treatment programs licensed under chapter 125 shall
42 prepare for their respective courses a list of the
43 locations of the courses taught under this section,
44 the dates and times taught, the procedure for
45 enrollment, and the schedule of course fees. The list
46 shall be kept current and a copy of the list shall be
47 sent to each court having jurisdiction over offenses
48 provided in this chapter.

49 5. The department of education and substance abuse
50 treatment programs licensed under chapter 125 shall

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1 maintain enrollment, attendance, successful and
 2 nonsuccessful completion data for their respective
 3 courses on the persons ordered to enroll, attend, and
 4 successfully complete a course for drinking drivers.
 5 This data shall be forwarded to the court by both the
 6 department of education and substance abuse treatment
 7 programs licensed under chapter 125."

8 2. Title page, line 2, by striking the word "and"
 9 and inserting the following: "or".

10 3. Title page, by striking lines 3 through 6 and
 11 inserting the following: "programs."

By RICHARD F. DRAKE
 JOHN P. KIBBIE

S-5206 FILED MARCH 22, 2000

w/d

*4-3-00
(p. 963)*

HOUSE FILE 2511

S-5227

1 Amend House File 2511, as passed by the House, as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. Section 321J.22, subsections 2, 4, and
6 5, Code 1999, are amended to read as follows:

7 2. a. The course provided according to this
8 section shall be offered on a regular basis at each
9 community college as defined in section 260C.2, or by
10 substance abuse treatment programs licensed under
11 chapter 125. However, a community college shall not
12 be required to offer the course if a substance abuse
13 treatment program licensed under chapter 125 offers
14 the course within the merged area served by the
15 community college.

16 b. Enrollment in the courses is not limited to
17 persons ordered to enroll, attend, and successfully
18 complete the course required under sections 321J.2 and
19 321J.17, subsection 2. However, any person under age
20 eighteen who is required to attend the courses for
21 violation of section 321J.2 or 321J.17 must attend a
22 course offered by a substance abuse treatment program
23 licensed under chapter 125.

24 c. The course required by this section shall be:
25 taught

26 (1) Taught by the a community colleges college
27 under the supervision of the department of education
28 and approved or by a substance abuse treatment program
29 licensed under chapter 125.

30 (2) Approved by the department of education, in
31 consultation with the community colleges and substance
32 abuse treatment programs licensed under chapter 125.

33 d. The department of education shall establish
34 reasonable fees to defray the expense of obtaining
35 classroom space, instructor salaries, and class
36 materials for courses offered both by community
37 colleges and by substance abuse treatment programs
38 licensed under chapter 125.

39 e. A person shall not be denied enrollment in a
40 course by reason of the person's indigency.

41 4. The department of education and substance abuse
42 treatment programs licensed under chapter 125 shall
43 prepare for their respective courses a list of the
44 locations of the courses taught under this section,
45 the dates and times taught, the procedure for
46 enrollment, and the schedule of course fees. The list
47 shall be kept current and a copy of the list shall be
48 sent to each court having jurisdiction over offenses
49 provided in this chapter.

50 5. The department of education and substance abuse

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1 treatment programs licensed under chapter 125 shall
2 maintain enrollment, attendance, successful and
3 nonsuccessful completion data for their respective
4 courses on the persons ordered to enroll, attend, and
5 successfully complete a course for drinking drivers.
6 This data shall be forwarded to the court by both the
7 department of education and substance abuse treatment
8 programs licensed under chapter 125."

9 2. Title page, line 2, by striking the word "and"
10 and inserting the following: "or".

11 3. Title page, by striking lines 3 through 6 and
12 inserting the following: "programs."

By RICHARD F. DRAKE
JOHN P. KIBBIE

S-5227 FILED MARCH 23, 2000

Adopted
• 4-3-00
(P.964)

HOUSE FILE 2511

S-5235

1 Amend House File 2511, as passed by the House, as
2 follows:

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

5 "Section 1. Section 123.46, Code 1999, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 3A. a. A peace officer shall
8 make a reasonable effort to identify a person under
9 the age of eighteen who violates this section, and if
10 the person is not referred to juvenile court, the law
11 enforcement agency of which the peace officer is an
12 employee shall make a reasonable attempt to notify the
13 person's custodial parent or legal guardian of the
14 violation, whether or not the person is taken into
15 custody, unless the officer has reasonable grounds to
16 believe that notification is not in the best interests
17 of the person or will endanger that person.

18 b. The peace officer shall also make a reasonable
19 effort to identify the elementary or secondary school
20 which the person attends if the person is enrolled in
21 elementary or secondary school and to notify the
22 superintendent or the superintendent's designee of the
23 school which the person attends, or the authorities in
24 charge of the nonpublic school which the person
25 attends, of the violation. If the person is taken
26 into custody, the peace officer shall notify a
27 juvenile court officer who shall make a reasonable
28 effort to identify the elementary or secondary school
29 the person attends, if any, and to notify the
30 superintendent of the school district or the
31 superintendent's designee, or the authorities in
32 charge of the nonpublic school, of the violation. A
33 reasonable attempt to notify the person includes, but
34 is not limited to, a telephone call or notice by
35 first-class mail.

36 Sec. 2. NEW SECTION. 321J.2B PARENTAL AND SCHOOL
37 NOTIFICATION -- PERSONS UNDER EIGHTEEN YEARS OF AGE.

38 1. A peace officer shall make a reasonable effort
39 to identify a person under the age of eighteen who
40 violates section 321J.2 or 321J.2A, and if the person
41 is not referred to juvenile court, the law enforcement
42 agency of which the peace officer is an employee shall
43 make a reasonable attempt to notify the person's
44 custodial parent or legal guardian of the violation,
45 whether or not the person is taken into custody,
46 unless the officer has reasonable grounds to believe
47 that notification is not in the best interests of the
48 person or will endanger that person.

49 2. The peace officer shall also make a reasonable
50 effort to identify the elementary or secondary school

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1 which the person attends if the person is enrolled in
2 elementary or secondary school and to notify the
3 superintendent or the superintendent's designee of the
4 school which the person attends, or the authorities in
5 charge of the nonpublic school which the person
6 attends, of the violation. If the person is taken
7 into custody, the peace officer shall notify a
8 juvenile court officer who shall make a reasonable
9 effort to identify the elementary or secondary school
10 the person attends, if any, and to notify the
11 superintendent of the school district or the
12 superintendent's designee, or the authorities in
13 charge of the nonpublic school, of the violation. A
14 reasonable attempt to notify the person includes, but
15 is not limited to, a telephone call or notice by
16 first-class mail."

By TOM FLYNN

S-5235 FILED MARCH 23, 2000

o/o.
4/3/00
(P. 964)

HOUSE FILE 2511

S-5243

1 Amend the amendment, S-5227, to House File 2511, as
2 passed by the House, as follows:

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

5 "Section 1. Section 123.46, Code 1999, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 3A. a. A peace officer shall
8 make a reasonable effort to identify a person under
9 the age of eighteen who violates this section, and if
10 the person is not referred to juvenile court, the law
11 enforcement agency of which the peace officer is an
12 employee shall make a reasonable attempt to notify the
13 person's custodial parent or legal guardian of the
14 violation, whether or not the person is taken into
15 custody, unless the officer has reasonable grounds to
16 believe that notification is not in the best interests
17 of the person or will endanger that person.

18 b. The peace officer shall also make a reasonable
19 effort to identify the elementary or secondary school
20 which the person attends if the person is enrolled in
21 elementary or secondary school and to notify the
22 superintendent or the superintendent's designee of the
23 school which the person attends, or the authorities in
24 charge of the nonpublic school which the person
25 attends, of the violation. If the person is taken
26 into custody, the peace officer shall notify a
27 juvenile court officer who shall make a reasonable
28 effort to identify the elementary or secondary school
29 the person attends, if any, and to notify the
30 superintendent of the school district or the
31 superintendent's designee, or the authorities in
32 charge of the nonpublic school, of the violation. A
33 reasonable attempt to notify the person includes, but
34 is not limited to, a telephone call or notice by
35 first-class mail.

36 Sec. 2. NEW SECTION. 321J.2B PARENTAL AND SCHOOL
37 NOTIFICATION -- PERSONS UNDER EIGHTEEN YEARS OF AGE.

38 1. A peace officer shall make a reasonable effort
39 to identify a person under the age of eighteen who
40 violates section 321J.2 or 321J.2A, and if the person
41 is not referred to juvenile court, the law enforcement
42 agency of which the peace officer is an employee shall
43 make a reasonable attempt to notify the person's
44 custodial parent or legal guardian of the violation,
45 whether or not the person is taken into custody,
46 unless the officer has reasonable grounds to believe
47 that notification is not in the best interests of the
48 person or will endanger that person.

49 2. The peace officer shall also make a reasonable
50 effort to identify the elementary or secondary school

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1 which the person attends if the person is enrolled in
 2 elementary or secondary school and to notify the
 3 superintendent or the superintendent's designee of the
 4 school which the person attends, or the authorities in
 5 charge of the nonpublic school which the person
 6 attends, of the violation. If the person is taken
 7 into custody, the peace officer shall notify a
 8 juvenile court officer who shall make a reasonable
 9 effort to identify the elementary or secondary school
 10 the person attends, if any, and to notify the
 11 superintendent of the school district or the
 12 superintendent's designee, or the authorities in
 13 charge of the nonpublic school, of the violation. A
 14 reasonable attempt to notify the person includes, but
 15 is not limited to, a telephone call or notice by
 16 first-class mail."

17 2. Page 2, by striking lines 9 through 12 and
 18 inserting the following:

19 "____. Title page, by striking lines 1 through 6
 20 and inserting the following: "An Act relating to
 21 drinking drivers, by providing that the course for
 22 drinking drivers shall be taught by community colleges
 23 or licensed substance abuse programs, and by providing
 24 for parental and school notification of certain
 25 violations by persons under eighteen years of age.""

26 3. By renumbering as necessary.

By TOM FLYNN

S-5243 FILED MARCH 27, 2000

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 4/3/00
 (p. 964)*

HOUSE FILE 2511

S-5256

1 Amend House File 2511, as passed by the House, as
2 follows:

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

5 "Sec. 101. Section 321J.13, subsection 6,
6 paragraph b, Code Supplement 1999, is amended to read
7 as follows:

8 b. The person shall prevail at the hearing if, in
9 the criminal action on the charge of violation of
10 section 321J.2 or 321J.2A resulting from the same
11 circumstances that resulted in the administrative
12 revocation being challenged, ~~the court held~~ if one of
13 the following occurs:

14 (1) ~~That The court held that the peace officer did~~
15 ~~not have reasonable grounds to believe that a~~
16 ~~violation of section 321J.2 or 321J.2A had occurred to~~
17 ~~support a request for or to administer a chemical~~
18 ~~test.~~

19 (2) ~~That The court held that the chemical test was~~
20 ~~otherwise inadmissible or invalid.~~

21 (3) ~~The defendant is acquitted on the charge.~~

22 (4) ~~The case is otherwise dismissed by the court.~~

23 (5) ~~The rulings of the court in the criminal~~
24 ~~action on the charge that resulted in the~~
25 ~~administrative revocation otherwise support rescision~~
26 ~~of the revocation.~~

27 Sec. _____. Section 321J.17, Code 1999, is amended
28 by adding the following new subsection:

29 NEW SUBSECTION. 3. This section shall not apply
30 and any civil penalty ordered or other order imposed
31 under this section shall be rescinded under any of the
32 following circumstances:

33 a. When the court holds, on the charge of a
34 violation of section 321J.2 or 321J.2A which arises
35 out of the same facts and circumstances, that the
36 peace officer did not have reasonable grounds to
37 believe that a violation of section 321J.2 or 321J.2A
38 had occurred to support a request for or to administer
39 a chemical test.

40 b. When the court holds, on the charge of a
41 violation of section 321J.2 or 321J.2A which arises
42 out of the same facts and circumstances, that the
43 chemical test was otherwise inadmissible or invalid.

44 c. When the person is acquitted on the charge of a
45 violation of section 321J.2 or 321J.2A arising out of
46 the same facts and circumstances.

47 d. When the criminal action arising out of the
48 same facts and circumstances in which the person is
49 charged with a violation of section 321J.2 or 321J.2A
50 is otherwise dismissed by the court.

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1 e. When the rulings by the court in the criminal
2 action arising out of the same facts and circumstances
3 in which the person is charged with a violation of
4 section 321J.2 or 321J.2A otherwise support rescision
5 of the revocation and civil penalty."

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

8 "Sec. ____ . RETROACTIVE APPLICABILITY. Section 101
9 of this Act shall apply retroactively to July 1,
10 1997."

11 3. Title page, line 1, by inserting after the
12 word "Act" the following: "relating to drinking
13 drivers by".

14 4. Title page, line 5, by inserting after the
15 word "more," the following: "modifying the
16 application of certain operator penalties for
17 operating while intoxicated, providing for retroactive
18 applicability,".

19 5. By renumbering as necessary.

By JEFF LAMBERTI

S-5256 FILED MARCH 28, 2000

0/0
4/3/00

HOUSE FILE 2511

S-5263

1 Amend the amendment, S-5206, to House File 2511, as
2 passed by the House, as follows:

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

5 ""Section. 1. Section 321.560, Code 1999, is
6 amended to read as follows:

7 321.560 PERIOD OF REVOCATION.

8 1. A license to operate a motor vehicle in this
9 state shall not be issued to any person declared to be
10 a habitual offender under section 321.555, subsection
11 1, for a period of not less than two years nor more
12 than six years from the date of the final decision of
13 the department under section 17A.19 or the date on
14 which the district court upholds the final decision of
15 the department, whichever occurs later.

16 a. ~~However,~~ a temporary restricted permit may be
17 issued pursuant to section 321.215, subsection 2, to a
18 person declared to be a habitual offender under
19 section 321.555, subsection 1, paragraph "c", ~~pursuant~~
20 ~~to section 321.2157-subsection-2.~~

21 b. A temporary restricted permit may be issued
22 pursuant to section 321J.4, subsection 9, to a person
23 declared to be a habitual offender due to a
24 combination of the offenses listed under section
25 321.555, subsection 1, paragraph "b" or "c".

26 2. A license to operate a motor vehicle in this
27 state shall not be issued to any person declared to be
28 a habitual offender under section 321.555, subsection
29 2, for a period of one year from the date of the final
30 decision of the department under section 17A.19 or the
31 date on which the district court upholds the final
32 decision of the department, whichever occurs later.

33 3. The department shall adopt rules under chapter
34 17A which that establish a point system which shall be
35 used to determine the period for which a person who is
36 declared to be a habitual offender under section
37 321.555, subsection 1, shall not be issued a license.

38 4. A person who is determined to be a habitual
39 offender while the person's license is already revoked
40 for being a habitual offender under section 321.555
41 shall not be issued a license to operate a motor
42 vehicle in this state for a period of not less than
43 two years nor more than six years. The revocation
44 period may commence either on the date of the final
45 decision of the department under section 17A.19 or the
46 date on which the district court upholds the final
47 decision of the department, whichever occurs later, or
48 on the date the previous revocation expires.

49 Sec. _____. Section 321J.4, subsection 9, Code
50 Supplement 1999, is amended to read as follows:

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1 9. a. A person whose driver's license has either
2 been revoked under this chapter, or revoked or
3 suspended under chapter 321 solely for violations of
4 this chapter, or who has been determined to be a
5 habitual offender under chapter 321 based solely on
6 violations of this chapter or on violations listed in
7 section 321.560, subsection 1, paragraph "b", and who
8 is not eligible for a temporary restricted license
9 under this chapter may petition the court upon the
10 expiration of the minimum period of ineligibility for
11 a temporary restricted license provided for under this
12 section, or section 321J.9, 321J.12, or 321J.20, or
13 321.560, for an order to the department to require the
14 department to issue a temporary restricted license to
15 the person notwithstanding section 321.560.

16 b. The petition shall include a current certified
17 copy of the petitioner's official driving record
18 issued by the department.

19 c. Upon the filing of a petition for a temporary
20 restricted license under this section, the clerk of
21 the district court in the county where the violation
22 that resulted in the revocation occurred shall send
23 notice of the petition to the department and the
24 prosecuting attorney. The department and the
25 prosecuting attorney shall each be given an
26 opportunity to respond to and request a hearing on the
27 petition.

28 d. The court shall determine if the temporary
29 restricted license is necessary for the person to
30 maintain the person's present employment. However, a
31 temporary restricted license shall not be ordered or
32 issued for a violation of section 321J.2A or to a
33 person under the age of twenty-one whose license is
34 revoked under this section or section 321J.9 or
35 321J.12. If the court determines that the temporary
36 restricted license is necessary for the person to
37 maintain the person's present employment, and that the
38 minimum period of ineligibility for receipt of a
39 temporary license has expired, the court shall order
40 the department to issue to the person a temporary
41 restricted license conditioned upon the person's
42 certification to the court of the installation of
43 approved ignition interlock devices in all motor
44 vehicles that it is necessary for the person to
45 operate to maintain the person's present employment.

46 e. Section 321.561 does not apply to a person
47 operating a motor vehicle in the manner permitted
48 under this subsection.

49 f. If the person operates a motor vehicle which
50 does not have an approved ignition interlock device or

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1 if the person tampers with or circumvents an ignition
2 interlock device, in addition to other penalties
3 provided, the person's temporary restricted license
4 shall be revoked.

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

11 h. Notwithstanding any provision of this chapter
12 to the contrary, the court may order the department to
13 issue a temporary restricted license to a person
14 otherwise eligible for a temporary restricted license
15 under this subsection, whose period of revocation
16 under this chapter has expired, but who has not met
17 all requirements for reinstatement of the person's
18 driver's license or nonresident operating
19 privileges."

20 2. Page 2, by inserting after line 7 the
21 following:

22 "____. Title page, line 1, by inserting before the
23 word "providing" the following: "relating to drinking
24 drivers by providing for the issuance of temporary
25 restricted permits or licenses, "."

By DONALD B. REDFERN
STEVE KING

S-5263 FILED MARCH 28, 2000

0/0

4/3/00

(P. 963)

HOUSE FILE 2511

S-5274

1 Amend the amendment, S-5227, to House File 2511, as
2 passed by the House, as follows:

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

5 "Section. 1. Section 321.560, Code 1999, is
6 amended to read as follows:

7 321.560 PERIOD OF REVOCATION.

8 1. A license to operate a motor vehicle in this
9 state shall not be issued to any person declared to be
10 a habitual offender under section 321.555, subsection
11 1, for a period of not less than two years nor more
12 than six years from the date of the final decision of
13 the department under section 17A.19 or the date on
14 which the district court upholds the final decision of
15 the department, whichever occurs later.

16 a. ~~However,~~ a temporary restricted permit may be
17 issued pursuant to section 321.215, subsection 2, to a
18 person declared to be a habitual offender under
19 section 321.555, subsection 1, paragraph "c"~~7~~ pursuant
20 to section 321.215, subsection 2.

21 b. A temporary restricted permit may be issued
22 pursuant to section 321J.4, subsection 9, to a person
23 declared to be a habitual offender due to a
24 combination of the offenses listed under section
25 321.555, subsection 1, paragraph "b" or "c".

26 2. A license to operate a motor vehicle in this
27 state shall not be issued to any person declared to be
28 a habitual offender under section 321.555, subsection
29 2, for a period of one year from the date of the final
30 decision of the department under section 17A.19 or the
31 date on which the district court upholds the final
32 decision of the department, whichever occurs later.

33 3. The department shall adopt rules under chapter
34 17A ~~which that~~ establish a point system which shall be
35 used to determine the period for which a person who is
36 declared to be a habitual offender under section
37 321.555, subsection 1, shall not be issued a license.

38 4. A person who is determined to be a habitual
39 offender while the person's license is already revoked
40 for being a habitual offender under section 321.555
41 shall not be issued a license to operate a motor
42 vehicle in this state for a period of not less than
43 two years nor more than six years. The revocation
44 period may commence either on the date of the final
45 decision of the department under section 17A.19 or the
46 date on which the district court upholds the final
47 decision of the department, whichever occurs later, or
48 on the date the previous revocation expires.

49 Sec. ____ . Section 321J.4, subsection 9, Code
50 Supplement 1999, is amended to read as follows:

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1 9. a. A person whose driver's license has either
2 been revoked under this chapter, or revoked or
3 suspended under chapter 321 solely for violations of
4 this chapter, or who has been determined to be a
5 habitual offender under chapter 321 based solely on
6 violations of this chapter or on violations listed in
7 section 321.560, subsection 1, paragraph "b", and who
8 is not eligible for a temporary restricted license
9 under this chapter may petition the court upon the
10 expiration of the minimum period of ineligibility for
11 a temporary restricted license provided for under this
12 section, or section 321J.9, 321J.12, or 321J.20, or
13 321.560, for an order to the department to require the
14 department to issue a temporary restricted license to
15 the person notwithstanding section 321.560.

16 b. The petition shall include a current certified
17 copy of the petitioner's official driving record
18 issued by the department.

19 c. Upon the filing of a petition for a temporary
20 restricted license under this section, the clerk of
21 the district court in the county where the violation
22 that resulted in the revocation occurred shall send
23 notice of the petition to the department and the
24 prosecuting attorney. The department and the
25 prosecuting attorney shall each be given an
26 opportunity to respond to and request a hearing on the
27 petition.

28 d. The court shall determine if the temporary
29 restricted license is necessary for the person to
30 maintain the person's present employment. However, a
31 temporary restricted license shall not be ordered or
32 issued for a violation of section 321J.2A or to a
33 person under the age of twenty-one whose license is
34 revoked under this section or section 321J.9 or
35 321J.12. If the court determines that the temporary
36 restricted license is necessary for the person to
37 maintain the person's present employment, and that the
38 minimum period of ineligibility for receipt of a
39 temporary license has expired, the court shall order
40 the department to issue to the person a temporary
41 restricted license conditioned upon the person's
42 certification to the court of the installation of
43 approved ignition interlock devices in all motor
44 vehicles that it is necessary for the person to
45 operate to maintain the person's present employment.

46 e. Section 321.561 does not apply to a person
47 operating a motor vehicle in the manner permitted
48 under this subsection.

49 f. If the person operates a motor vehicle which
50 does not have an approved ignition interlock device or

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1 if the person tampers with or circumvents an ignition
2 interlock device, in addition to other penalties
3 provided, the person's temporary restricted license
4 shall be revoked.

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

11 h. Notwithstanding any provision of this chapter
12 to the contrary, the court may order the department to
13 issue a temporary restricted license to a person
14 otherwise eligible for a temporary restricted license
15 under this subsection, whose period of revocation
16 under this chapter has expired, but who has not met
17 all requirements for reinstatement of the person's
18 driver's license or nonresident operating privileges."

19 2. Page 2, by inserting after line 8 the
20 following:

21 "____. Title page, line 1, by inserting before the
22 word "providing" the following: "relating to drinking
23 drivers by providing for the issuance of temporary
24 restricted permits or licenses, "."

By DONALD B. REDFERN
STEVE KING

S-5274 FILED MARCH 28, 2000

0/0
4-3-00
(P. 964)

HOUSE FILE 2511

S-5277

1 Amend the amendment, S-5227, to House File 2511, as
2 passed by the House, as follows:

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

5 ""Section 101. Section 321J.13, subsection 6,
6 paragraph b, Code Supplement 1999, is amended to read
7 as follows:

8 b. The person shall prevail at the hearing if, in
9 the criminal action on the charge of violation of
10 section 321J.2 or 321J.2A resulting from the same
11 circumstances that resulted in the administrative
12 revocation being challenged, ~~the court held~~ if one of
13 the following occurs:

14 (1) ~~That~~ The court held that the peace officer did
15 not have reasonable grounds to believe that a
16 violation of section 321J.2 or 321J.2A had occurred to
17 support a request for or to administer a chemical
18 test.

19 (2) ~~That~~ The court held that the chemical test was
20 otherwise inadmissible or invalid.

21 (3) The defendant is acquitted on the charge.

22 (4) The case is otherwise dismissed by the court.

23 (5) The rulings of the court in the criminal
24 action on the charge that resulted in the
25 administrative revocation otherwise support rescision
26 of the revocation.

27 Sec. _____. Section 321J.17, Code 1999, is amended
28 by adding the following new subsection:

29 NEW SUBSECTION. 3. This section shall not apply
30 and any civil penalty ordered or other order imposed
31 under this section shall be rescinded under any of the
32 following circumstances:

33 a. When the court holds, on the charge of a
34 violation of section 321J.2 or 321J.2A which arises
35 out of the same facts and circumstances, that the
36 peace officer did not have reasonable grounds to
37 believe that a violation of section 321J.2 or 321J.2A
38 had occurred to support a request for or to administer
39 a chemical test.

40 b. When the court holds, on the charge of a
41 violation of section 321J.2 or 321J.2A which arises
42 out of the same facts and circumstances, that the
43 chemical test was otherwise inadmissible or invalid.

44 c. When the person is acquitted on the charge of a
45 violation of section 321J.2 or 321J.2A arising out of
46 the same facts and circumstances.

47 d. When the criminal action arising out of the
48 same facts and circumstances in which the person is
49 charged with a violation of section 321J.2 or 321J.2A
50 is otherwise dismissed by the court.

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1 e. When the rulings by the court in the criminal
2 action arising out of the same facts and circumstances
3 in which the person is charged with a violation of
4 section 321J.2 or 321J.2A otherwise support rescision
5 of the revocation and civil penalty."

6 2. Page 2, by inserting after line 8, the
7 following:

8 "Sec. _____. RETROACTIVE APPLICABILITY. Section 101
9 of this Act shall apply retroactively to July 1,
10 1997.""

11 3. Page 2, by inserting before line 9 the
12 following:

13 "_____. Title page, line 1, by inserting after the
14 word "Act" the following: "relating to drinking
15 drivers by"."

16 4. Page 2, by striking lines 11 and 12 and
17 inserting the following:

18 "_____. Title page, by striking lines 3 through 6
19 and inserting the following: "programs, by modifying
20 the application of certain operator penalties for
21 operating while intoxicated, and providing for
22 retroactive applicability.""

23 5. By renumbering as necessary.

By JEFF LAMBERTI

S-5277 FILED MARCH 28, 2000

*W/D
4/3/00
(p.964)*

HOUSE FILE 2511

S-5306

1 Amend the amendment, S-5227, to House File 2511, as
2 passed by the House, as follows:

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

5 ""Section 1. Section 123.46, Code 1999, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 3A. a. A peace officer shall
8 make a reasonable effort to identify a person under
9 the age of eighteen who violates this section, and if
10 the person is not referred to juvenile court, the law
11 enforcement agency of which the peace officer is an
12 employee shall make a reasonable attempt to notify the
13 person's custodial parent or legal guardian of the
14 violation, whether or not the person is taken into
15 custody, unless the officer has reasonable grounds to
16 believe that notification is not in the best interests
17 of the person or will endanger that person.

18 b. The peace officer shall also make a reasonable
19 effort to identify the elementary or secondary school
20 which the person attends if the person is enrolled in
21 elementary or secondary school and to notify the
22 superintendent or the superintendent's designee of the
23 school which the person attends, or the authorities in
24 charge of the nonpublic school which the person
25 attends, of the violation. If the person is taken
26 into custody, the peace officer shall notify a
27 juvenile court officer who shall make a reasonable
28 effort to identify the elementary or secondary school
29 the person attends, if any, and to notify the
30 superintendent of the school district or the
31 superintendent's designee, or the authorities in
32 charge of the nonpublic school, of the violation. A
33 reasonable attempt to notify the person includes, but
34 is not limited to, a telephone call or notice by
35 first-class mail.

36 Sec. _____. Section 321.560, Code 1999, is amended
37 to read as follows:

38 321.560 PERIOD OF REVOCATION.

39 1. A license to operate a motor vehicle in this
40 state shall not be issued to any person declared to be
41 a habitual offender under section 321.555, subsection
42 1, for a period of not less than two years nor more
43 than six years from the date of the final decision of
44 the department under section 17A.19 or the date on
45 which the district court upholds the final decision of
46 the department, whichever occurs later.

47 a. ~~However,~~ a A temporary restricted permit may be
48 issued pursuant to section 321.215, subsection 2, to a
49 person declared to be a habitual offender under
50 section 321.555, subsection 1, paragraph "c"~~7~~-pursuant

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1 ~~to section 321.215, subsection 2.~~

2 b. A temporary restricted permit may be issued
3 pursuant to section 321J.4, subsection 9, to a person
4 declared to be a habitual offender due to a
5 combination of the offenses listed under section
6 321.555, subsection 1, paragraph "b" or "c".

7 2. A license to operate a motor vehicle in this
8 state shall not be issued to any person declared to be
9 a habitual offender under section 321.555, subsection
10 2, for a period of one year from the date of the final
11 decision of the department under section 17A.19 or the
12 date on which the district court upholds the final
13 decision of the department, whichever occurs later.

14 3. The department shall adopt rules under chapter
15 17A which that establish a point system which shall be
16 used to determine the period for which a person who is
17 declared to be a habitual offender under section
18 321.555, subsection 1, shall not be issued a license.

19 4. A person who is determined to be a habitual
20 offender while the person's license is already revoked
21 for being a habitual offender under section 321.555
22 shall not be issued a license to operate a motor
23 vehicle in this state for a period of not less than
24 two years nor more than six years. The revocation
25 period may commence either on the date of the final
26 decision of the department under section 17A.19 or the
27 date on which the district court upholds the final
28 decision of the department, whichever occurs later, or
29 on the date the previous revocation expires.

30 Sec. ____ . Section 321J.4, subsection 9, Code
31 Supplement 1999, is amended to read as follows:

32 9. a. A person whose driver's license has either
33 been revoked under this chapter, or revoked or
34 suspended under chapter 321 solely for violations of
35 this chapter, or who has been determined to be a
36 habitual offender under chapter 321 based solely on
37 violations of this chapter or on violations listed in
38 section 321.560, subsection 1, paragraph "b", and who
39 is not eligible for a temporary restricted license
40 under this chapter may petition the court upon the
41 expiration of the minimum period of ineligibility for
42 a temporary restricted license provided for under this
43 section, or section 321J.9, 321J.12, or 321J.20, or
44 321.560, for an order to the department to require the
45 department to issue a temporary restricted license to
46 the person notwithstanding section 321.560.

47 b. The petition shall include a current certified
48 copy of the petitioner's official driving record
49 issued by the department.

50 c. Upon the filing of a petition for a temporary

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1 restricted license under this section, the clerk of
2 the district court in the county where the violation
3 that resulted in the revocation occurred shall send
4 notice of the petition to the department and the
5 prosecuting attorney. The department and the
6 prosecuting attorney shall each be given an
7 opportunity to respond to and request a hearing on the
8 petition.

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

27 e. Section 321.561 does not apply to a person
28 operating a motor vehicle in the manner permitted
29 under this subsection.

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

36 g. A person holding a temporary restricted license
37 issued under this subsection shall not operate a
38 commercial motor vehicle, as defined in section 321.1,
39 on a highway if a commercial driver's license is
40 required for the person to operate the commercial
41 motor vehicle.

42 h. Notwithstanding any provision of this chapter
43 to the contrary, the court may order the department to
44 issue a temporary restricted license to a person
45 otherwise eligible for a temporary restricted license
46 under this subsection, whose period of revocation
47 under this chapter has expired, but who has not met
48 all requirements for reinstatement of the person's
49 driver's license or nonresident operating privileges.

50 Sec. ____ . NEW SECTION. 321J.2B PARENTAL AND

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1 SCHOOL NOTIFICATION -- PERSONS UNDER EIGHTEEN YEARS OF
2 AGE.

3 1. A peace officer shall make a reasonable effort
4 to identify a person under the age of eighteen who
5 violates section 321J.2 or 321J.2A, and if the person
6 is not referred to juvenile court, the law enforcement
7 agency of which the peace officer is an employee shall
8 make a reasonable attempt to notify the person's
9 custodial parent or legal guardian of the violation,
10 whether or not the person is taken into custody,
11 unless the officer has reasonable grounds to believe
12 that notification is not in the best interests of the
13 person or will endanger that person.

14 2. The peace officer shall also make a reasonable
15 effort to identify the elementary or secondary school
16 which the person attends if the person is enrolled in
17 elementary or secondary school and to notify the
18 superintendent or the superintendent's designee of the
19 school which the person attends, or the authorities in
20 charge of the nonpublic school which the person
21 attends, of the violation. If the person is taken
22 into custody, the peace officer shall notify a
23 juvenile court officer who shall make a reasonable
24 effort to identify the elementary or secondary school
25 the person attends, if any, and to notify the
26 superintendent of the school district or the
27 superintendent's designee, or the authorities in
28 charge of the nonpublic school, of the violation. A
29 reasonable attempt to notify the person includes, but
30 is not limited to, a telephone call or notice by
31 first-class mail."

32 2. Page 2, by striking lines 9 through 12 and
33 inserting the following:

34 "____. Title page, by striking lines 1 through 6
35 and inserting the following: "An Act relating to
36 drinking driver restrictions by providing for the
37 issuance of temporary restricted permits or licenses
38 under certain circumstances, by providing that the
39 course for drinking drivers shall be taught by
40 community colleges or licensed substance abuse
41 programs, and by providing for parental and school
42 notification of certain violations by persons under
43 eighteen years of age.""

44 3. By renumbering as necessary.

By DONALD B. REDFERN
STEVE KING
TOM FLYNN

S-5306 FILED MARCH 29, 2000

Adopted
4-3-00
(p. 964)

SENATE AMENDMENT TO HOUSE FILE 2511

H-8692

1 Amend House File 2511, as passed by the House, as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. Section 123.46, Code 1999, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 3A. a. A peace officer shall
8 make a reasonable effort to identify a person under
9 the age of eighteen who violates this section, and if
10 the person is not referred to juvenile court, the law
11 enforcement agency of which the peace officer is an
12 employee shall make a reasonable attempt to notify the
13 person's custodial parent or legal guardian of the
14 violation, whether or not the person is taken into
15 custody, unless the officer has reasonable grounds to
16 believe that notification is not in the best interests
17 of the person or will endanger that person.

18 b. The peace officer shall also make a reasonable
19 effort to identify the elementary or secondary school
20 which the person attends if the person is enrolled in
21 elementary or secondary school and to notify the
22 superintendent or the superintendent's designee of the
23 school which the person attends, or the authorities in
24 charge of the nonpublic school which the person
25 attends, of the violation. If the person is taken
26 into custody, the peace officer shall notify a
27 juvenile court officer who shall make a reasonable
28 effort to identify the elementary or secondary school
29 the person attends, if any, and to notify the
30 superintendent of the school district or the
31 superintendent's designee, or the authorities in
32 charge of the nonpublic school, of the violation. A
33 reasonable attempt to notify the person includes, but
34 is not limited to, a telephone call or notice by
35 first-class mail.

36 Sec. 2. Section 321.560, Code 1999, is amended to
37 read as follows:

38 321.560 PERIOD OF REVOCATION.

39 1. A license to operate a motor vehicle in this
40 state shall not be issued to any person declared to be
41 a habitual offender under section 321.555, subsection
42 1, for a period of not less than two years nor more
43 than six years from the date of the final decision of
44 the department under section 17A.19 or the date on
45 which the district court upholds the final decision of
46 the department, whichever occurs later.

47 a. ~~However,~~ ~~a~~ A temporary restricted permit may be
48 issued pursuant to section 321.215, subsection 2, to a
49 person declared to be a habitual offender under
50 section 321.555, subsection 1, paragraph "c" ~~;~~ pursuant

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1 ~~to section 321.215, subsection 2.~~

2 b. A temporary restricted permit may be issued
3 pursuant to section 321J.4, subsection 9, to a person
4 declared to be a habitual offender due to a
5 combination of the offenses listed under section
6 321.555, subsection 1, paragraph "b" or "c".

7 2. A license to operate a motor vehicle in this
8 state shall not be issued to any person declared to be
9 a habitual offender under section 321.555, subsection
10 2, for a period of one year from the date of the final
11 decision of the department under section 17A.19 or the
12 date on which the district court upholds the final
13 decision of the department, whichever occurs later.

14 3. The department shall adopt rules under chapter
15 17A which that establish a point system which shall be
16 used to determine the period for which a person who is
17 declared to be a habitual offender under section
18 321.555, subsection 1, shall not be issued a license.

19 4. A person who is determined to be a habitual
20 offender while the person's license is already revoked
21 for being a habitual offender under section 321.555
22 shall not be issued a license to operate a motor
23 vehicle in this state for a period of not less than
24 two years nor more than six years. The revocation
25 period may commence either on the date of the final
26 decision of the department under section 17A.19 or the
27 date on which the district court upholds the final
28 decision of the department, whichever occurs later, or
29 on the date the previous revocation expires.

30 Sec. 3. Section 321J.4, subsection 9, Code
31 Supplement 1999, is amended to read as follows:

32 9. a. A person whose driver's license has either
33 been revoked under this chapter, or revoked or
34 suspended under chapter 321 solely for violations of
35 this chapter, or who has been determined to be a
36 habitual offender under chapter 321 based solely on
37 violations of this chapter or on violations listed in
38 section 321.560, subsection 1, paragraph "b", and who
39 is not eligible for a temporary restricted license
40 under this chapter may petition the court upon the
41 expiration of the minimum period of ineligibility for
42 a temporary restricted license provided for under this
43 section, or section 321J.9, 321J.12, or 321J.20, or
44 321.560, for an order to the department to require the
45 department to issue a temporary restricted license to
46 the person notwithstanding section 321.560.

47 b. The petition shall include a current certified
48 copy of the petitioner's official driving record
49 issued by the department.

50 c. Upon the filing of a petition for a temporary

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1 restricted license under this section, the clerk of
2 the district court in the county where the violation
3 that resulted in the revocation occurred shall send
4 notice of the petition to the department and the
5 prosecuting attorney. The department and the
6 prosecuting attorney shall each be given an
7 opportunity to respond to and request a hearing on the
8 petition.

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

27 e. Section 321.561 does not apply to a person
28 operating a motor vehicle in the manner permitted
29 under this subsection.

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

36 g. A person holding a temporary restricted license
37 issued under this subsection shall not operate a
38 commercial motor vehicle, as defined in section 321.1,
39 on a highway if a commercial driver's license is
40 required for the person to operate the commercial
41 motor vehicle.

42 h. Notwithstanding any provision of this chapter
43 to the contrary, the court may order the department to
44 issue a temporary restricted license to a person
45 otherwise eligible for a temporary restricted license
46 under this subsection, whose period of revocation
47 under this chapter has expired, but who has not met
48 all requirements for reinstatement of the person's
49 driver's license or nonresident operating privileges.

50 Sec. 4. NEW SECTION. 321J.2B PARENTAL AND SCHOOL

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1 NOTIFICATION -- PERSONS UNDER EIGHTEEN YEARS OF AGE.

2 1. A peace officer shall make a reasonable effort
3 to identify a person under the age of eighteen who
4 violates section 321J.2 or 321J.2A, and if the person
5 is not referred to juvenile court, the law enforcement
6 agency of which the peace officer is an employee shall
7 make a reasonable attempt to notify the person's
8 custodial parent or legal guardian of the violation,
9 whether or not the person is taken into custody,
10 unless the officer has reasonable grounds to believe
11 that notification is not in the best interests of the
12 person or will endanger that person.

13 2. The peace officer shall also make a reasonable
14 effort to identify the elementary or secondary school
15 which the person attends if the person is enrolled in
16 elementary or secondary school and to notify the
17 superintendent or the superintendent's designee of the
18 school which the person attends, or the authorities in
19 charge of the nonpublic school which the person
20 attends, of the violation. If the person is taken
21 into custody, the peace officer shall notify a
22 juvenile court officer who shall make a reasonable
23 effort to identify the elementary or secondary school
24 the person attends, if any, and to notify the
25 superintendent of the school district or the
26 superintendent's designee, or the authorities in
27 charge of the nonpublic school, of the violation. A
28 reasonable attempt to notify the person includes, but
29 is not limited to, a telephone call or notice by
30 first-class mail.

31 Sec. 5. Section 321J.22, subsections 2, 4, and 5,
32 Code 1999, are amended to read as follows:

33 2. a. The course provided according to this
34 section shall be offered on a regular basis at each
35 community college as defined in section 260C.2, or by
36 substance abuse treatment programs licensed under
37 chapter 125. However, a community college shall not
38 be required to offer the course if a substance abuse
39 treatment program licensed under chapter 125 offers
40 the course within the merged area served by the
41 community college.

42 b. Enrollment in the courses is not limited to
43 persons ordered to enroll, attend, and successfully
44 complete the course required under sections 321J.2 and
45 321J.17, subsection 2. However, any person under age
46 eighteen who is required to attend the courses for
47 violation of section 321J.2 or 321J.17 must attend a
48 course offered by a substance abuse treatment program
49 licensed under chapter 125.

50 c. The course required by this section shall be:

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1 taught

2 (1) Taught by the a community colleges college
3 under the supervision of the department of education
4 and approved or by a substance abuse treatment program
5 licensed under chapter 125.

6 (2) Approved by the department of education, in
7 consultation with the community colleges and substance
8 abuse treatment programs licensed under chapter 125.

9 d. The department of education shall establish
10 reasonable fees to defray the expense of obtaining
11 classroom space, instructor salaries, and class
12 materials for courses offered both by community
13 colleges and by substance abuse treatment programs
14 licensed under chapter 125.

15 e. A person shall not be denied enrollment in a
16 course by reason of the person's indigency.

17 4. The department of education and substance abuse
18 treatment programs licensed under chapter 125 shall
19 prepare for their respective courses a list of the
20 locations of the courses taught under this section,
21 the dates and times taught, the procedure for
22 enrollment, and the schedule of course fees. The list
23 shall be kept current and a copy of the list shall be
24 sent to each court having jurisdiction over offenses
25 provided in this chapter.

26 5. The department of education and substance abuse
27 treatment programs licensed under chapter 125 shall
28 maintain enrollment, attendance, successful and
29 nonsuccessful completion data for their respective
30 courses on the persons ordered to enroll, attend, and
31 successfully complete a course for drinking drivers.
32 This data shall be forwarded to the court by both the
33 department of education and substance abuse treatment
34 programs licensed under chapter 125."

35 2. Title page, by striking lines 1 through 6 and
36 inserting the following: "An Act relating to drinking
37 driver restrictions by providing for the issuance of
38 temporary restricted permits or licenses under certain
39 circumstances, by providing that the course for
40 drinking drivers shall be taught by community colleges
41 or licensed substance abuse programs, and by providing
42 for parental and school notification of certain
43 violations by persons under eighteen years of age."

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HOUSE FILE 2511

AN ACT

RELATING TO DRINKING DRIVER RESTRICTIONS BY PROVIDING FOR THE ISSUANCE OF TEMPORARY RESTRICTED PERMITS OR LICENSES UNDER CERTAIN CIRCUMSTANCES, BY PROVIDING THAT THE COURSE FOR DRINKING DRIVERS SHALL BE TAUGHT BY COMMUNITY COLLEGES OR LICENSED SUBSTANCE ABUSE PROGRAMS, AND BY PROVIDING FOR PARENTAL AND SCHOOL NOTIFICATION OF CERTAIN VIOLATIONS BY PERSONS UNDER EIGHTEEN YEARS OF AGE.

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

Section 1. Section 123.46, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. a. A peace officer shall make a reasonable effort to identify a person under the age of eighteen who violates this section, and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable effort to notify the person's custodial parent or legal guardian of the violation, whether or not the person is taken into custody; unless the officer has reasonable grounds to believe that notification is not in the best interests of the person or will endanger that person.

b. The peace officer shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the violation. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any,

and to notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school, of the violation. A reasonable attempt to notify the person includes, but is not limited to, a telephone call or notice by first-class mail.

Sec. 2. Section 321.560, Code 1999, is amended to read as follows:

321.560 PERIOD OF REVOCATION.

1. A license to operate a motor vehicle in this state shall not be issued to any person declared to be a habitual offender under section 321.555, subsection 1, for a period of not less than two years nor more than six years from the date of the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later.

a. ~~However, a~~ A temporary restricted permit may be issued pursuant to section 321.215, subsection 2, to a person declared to be a habitual offender under section 321.555, subsection 1, paragraph "c", pursuant to section 321.215, subsection 2.

b. A temporary restricted permit may be issued pursuant to section 321J.4, subsection 9, to a person declared to be a habitual offender due to a combination of the offenses listed under section 321.555, subsection 1, paragraph "b" or "c".

2. A license to operate a motor vehicle in this state shall not be issued to any person declared to be a habitual offender under section 321.555, subsection 2, for a period of one year from the date of the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later.

3. The department shall adopt rules under chapter 17A which that establish a point system which shall be used to determine the period for which a person who is declared to be a habitual offender under section 321.555, subsection 1, shall not be issued a license.

4. A person who is determined to be a habitual offender while the person's license is already revoked for being a habitual offender under section 321.555 shall not be issued a license to operate a motor vehicle in this state for a period of not less than two years nor more than six years. The revocation period may commence either on the date of the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later, or on the date the previous revocation expires.

Sec. 3. Section 321J.4, subsection 9, Code Supplement 1999, is amended to read as follows:

9. a. A person whose driver's license has either been revoked under this chapter, or revoked or suspended under chapter 321 solely for violations of this chapter, or who has been determined to be a habitual offender under chapter 321 based solely on violations of this chapter or on violations listed in section 321.560, subsection 1, paragraph "b", and who is not eligible for a temporary restricted license under this chapter may petition the court upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under this section, or section 321J.9, 321J.12, or 321J.20, or 321.560, for an order to the department to require the department to issue a temporary restricted license to the person notwithstanding section 321.560.

b. The petition shall include a current certified copy of the petitioner's official driving record issued by the department.

c. Upon the filing of a petition for a temporary restricted license under this section, the clerk of the district court in the county where the violation that resulted in the revocation occurred shall send notice of the petition to the department and the prosecuting attorney. The department and the prosecuting attorney shall each be given an

opportunity to respond to and request a hearing on the petition.

d. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present employment. However, a temporary restricted license shall not be ordered or issued for a violation of section 321J.2A or to a person under the age of twenty-one whose license is revoked under this section or section 321J.9 or 321J.12. If the court determines that the temporary restricted license is necessary for the person to maintain the person's present employment, and that the minimum period of ineligibility for receipt of a temporary license has expired, the court shall order the department to issue to the person a temporary restricted license conditioned upon the person's certification to the court of the installation of approved ignition interlock devices in all motor vehicles that it is necessary for the person to operate to maintain the person's present employment.

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

f. If the person operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked.

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

h. Notwithstanding any provision of this chapter to the contrary, the court may order the department to issue a temporary restricted license to a person otherwise eligible for a temporary restricted license under this subsection, whose period of revocation under this chapter has expired, but

who has not met all requirements for reinstatement of the person's driver's license or nonresident operating privileges.

Sec. 4. NEW SECTION. 321J.2B PARENTAL AND SCHOOL NOTIFICATION -- PERSONS UNDER EIGHTEEN YEARS OF AGE.

1. A peace officer shall make a reasonable effort to identify a person under the age of eighteen who violates section 321J.2 or 321J.2A, and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of the violation, whether or not the person is taken into custody, unless the officer has reasonable grounds to believe that notification is not in the best interests of the person or will endanger that person.

2. The peace officer shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the violation. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school, of the violation. A reasonable attempt to notify the person includes, but is not limited to, a telephone call or notice by first-class mail.

Sec. 5. Section 321J.22, subsections 2, 4, and 5, Code 1999, are amended to read as follows:

2. a. The course provided according to this section shall be offered on a regular basis at each community college as defined in section 260C.2, or by substance abuse treatment programs licensed under chapter 125. However, a community

college shall not be required to offer the course if a substance abuse treatment program licensed under chapter 125 offers the course within the merged area served by the community college.

b. Enrollment in the courses is not limited to persons ordered to enroll, attend, and successfully complete the course required under sections 321J.2 and 321J.17, subsection 2. However, any person under age eighteen who is required to attend the courses for violation of section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under chapter 125.

c. The course required by this section shall be: taught (1) Taught by the a community colleges college under the supervision of the department of education and-approved or by a substance abuse treatment program licensed under chapter 125.

(2) Approved by the department of education, in consultation with the community colleges and substance abuse treatment programs licensed under chapter 125.

d. The department of education shall establish reasonable fees to defray the expense of obtaining classroom space, instructor salaries, and class materials for courses offered both by community colleges and by substance abuse treatment programs licensed under chapter 125.

e. A person shall not be denied enrollment in a course by reason of the person's indigency.

4. The department of education and substance abuse treatment programs licensed under chapter 125 shall prepare for their respective courses a list of the locations of the courses taught under this section, the dates and times taught, the procedure for enrollment, and the schedule of course fees. The list shall be kept current and a copy of the list shall be sent to each court having jurisdiction over offenses provided in this chapter.

5. The department of education and substance abuse treatment programs licensed under chapter 125 shall maintain enrollment, attendance, successful and nonsuccessful completion data for their respective courses on the persons ordered to enroll, attend, and successfully complete a course for drinking drivers. This data shall be forwarded to the court by both the department of education and substance abuse treatment programs licensed under chapter 125.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2511, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 4/21, 2000

THOMAS J. VILSACK
Governor