

MAR 1 1999

JUDICIARY

HOUSE FILE 430

BY HUSER and BOAL

(COMPANION TO SF 30 BY LAMBERTI)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the recision of an administrative license
2 revocation for an operating while intoxicated offense, and
3 providing an effective date.

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

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HF 430

1 Section 1. Section 321A.17, Code 1999, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 8. This section does not apply to an
4 individual whose administrative license revocation has been
5 rescinded under section 321J.13, and who is otherwise under no
6 obligation to furnish proof of financial responsibility.

7 Sec. 2. Section 321J.13, Code 1999, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 6. a. The department shall grant a
10 request for a hearing to rescind the revocation if the person
11 whose motor vehicle license or operating privilege has been or
12 is being revoked under section 321J.9 or 321J.12 submits a
13 petition containing information relating to the discovery of
14 new evidence that provides grounds for rescision of the
15 revocation.

16 b. The person shall prevail at the hearing if, in the
17 criminal action on the charge of violation of section 321J.2
18 or 321J.2A resulting from the same circumstances that resulted
19 in the administrative revocation being challenged, the court
20 held one of the following:

21 (1) That the peace officer did not have reasonable grounds
22 to believe that a violation of section 321J.2 or 321J.2A had
23 occurred to support a request for or to administer a chemical
24 test.

25 (2) That the chemical test was otherwise inadmissible or
26 invalid.

27 c. Such a holding by the court in the criminal action is
28 binding on the department, and the department shall rescind
29 the revocation.

30 Sec. 3. EFFECTIVE DATE. This Act, being deemed of
31 immediate importance, takes effect upon enactment.

32 EXPLANATION

33 This bill adds a subsection to Code section 321J.13, which
34 regulates administrative revocations of driver's licenses
35 under the chapter dealing with operating while intoxicated

1 violations. This subsection replaces a provision on reopening
2 revocation hearings that was completely struck in 1997
3 legislation.

4 The new subsection, like the subsection that was struck,
5 provides that a person may reopen a revocation hearing by
6 filing a petition stating that there is new evidence requiring
7 rescission of the revocation. The person may prevail in the
8 hearing by showing that, in the criminal action resulting from
9 the same violation of Code chapter 321J that caused the
10 administrative revocation of the license, the court held that
11 the peace officer did not have reasonable grounds to request
12 or administer a chemical test, or that the chemical test was
13 otherwise inadmissible or invalid.

14 A related provision is also added to Code section 321A.17,
15 regarding proof of financial responsibility. The subsection
16 eliminates the need for proof of financial responsibility by a
17 driver whose license revocation is rescinded, provided that
18 the driver is under no other legal obligation to provide proof
19 of financial responsibility.

20 The bill takes effect upon enactment.

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