

TRANSPORTATION

FILED FEB 22 2000

SENATE FILE 2236  
BY REDFERN

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

**A BILL FOR**

1 An Act relating to the availability of a temporary restricted  
2 license for certain habitual offenders.

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

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SF 2236 TRANSPORTATION

1 Section 1. Section 321.560, Code 1999, is amended to read  
2 as follows:

3 321.560 PERIOD OF REVOCATION.

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

11 a. ~~However,~~ a temporary restricted permit may be issued  
12 to a person declared to be a habitual offender under section  
13 321.555, subsection 1, paragraph "c", pursuant to section  
14 321.215, subsection 2.

15 b. A temporary restricted permit may be issued pursuant to  
16 section 321J.4, subsection 9, to a person declared to be a  
17 habitual offender in whole or in part due to an offense listed  
18 under section 321.555, subsection 1, paragraph "b". However,  
19 the person shall not be eligible for any temporary restricted  
20 license for one year after the effective date of revocation  
21 under this section.

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

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

34 4. A person who is determined to be a habitual offender  
35 while the person's license is already revoked for being a

1 habitual offender under section 321.555 shall not be issued a  
2 license to operate a motor vehicle in this state for a period  
3 of not less than two years nor more than six years. The  
4 revocation period may commence either on the date of the final  
5 decision of the department under section 17A.19 or the date on  
6 which the district court upholds the final decision of the  
7 department, whichever occurs later, or on the date the  
8 previous revocation expires.

9 Sec. 2. Section 321J.4, subsection 9, Code Supplement  
10 1999, is amended to read as follows:

11 9. a. A person whose driver's license has either been  
12 revoked under this chapter, or revoked or suspended under  
13 chapter 321 solely for violations of this chapter, or who has  
14 been determined to be a habitual offender under chapter 321  
15 based solely or partially on violations of this chapter, and  
16 who is not eligible for a temporary restricted license under  
17 this chapter may petition the court upon the expiration of the  
18 minimum period of ineligibility for a temporary restricted  
19 license provided for under this section, or section 321J.9,  
20 321J.12, or 321J.20, or 321.560, for an order to the  
21 department to require the department to issue a temporary  
22 restricted license to the person notwithstanding section  
23 321.560.

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

27 c. Upon the filing of a petition for a temporary  
28 restricted license under this section, the clerk of the  
29 district court in the county where the violation that resulted  
30 in the revocation occurred shall send notice of the petition  
31 to the department and the prosecuting attorney. The  
32 department and the prosecuting attorney shall each be given an  
33 opportunity to respond to and request a hearing on the  
34 petition.

35 d. The court shall determine if the temporary restricted

1 license is necessary for the person to maintain the person's  
2 present employment. However, a temporary restricted license  
3 shall not be ordered or issued for a violation of section  
4 321J.2A or to a person under the age of twenty-one whose  
5 license is revoked under this section or section 321J.9 or  
6 321J.12. If the court determines that the temporary  
7 restricted license is necessary for the person to maintain the  
8 person's present employment, and that the minimum period of  
9 ineligibility for receipt of a temporary license has expired,  
10 the court shall order the department to issue to the person a  
11 temporary restricted license conditioned upon the person's  
12 certification to the court of the installation of approved  
13 ignition interlock devices in all motor vehicles that it is  
14 necessary for the person to operate to maintain the person's  
15 present employment.

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

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

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

28 h. Notwithstanding any provision of this chapter to the  
29 contrary, the court may order the department to issue a  
30 temporary restricted license to a person otherwise eligible  
31 for a temporary restricted license under this subsection,  
32 whose period of revocation under this chapter has expired, but  
33 who has not met all requirements for reinstatement of the  
34 person's driver's license or nonresident operating privileges.

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EXPLANATION

1 This bill amends Code sections 321.560 and 321J.4 to  
2 provide for the availability of a temporary restricted license  
3 for a person who is determined to be a habitual offender under  
4 Code section 321.555 due to at least one operating while  
5 intoxicated offense under Code chapter 321J.

6 Presently, Code section 321J.4 provides a procedure for a  
7 court-ordered temporary restricted license for work purposes  
8 only for persons determined to be habitual offenders solely  
9 because of three Code chapter 321J offenses within six years.  
10 Presently, Code section 321.560 provides for availability of a  
11 temporary restricted license under Code section 321.215 for  
12 persons determined to be habitual offenders solely for three  
13 offenses in six years of driving a motor vehicle while the  
14 person's driver's license is suspended, denied, revoked, or  
15 barred.

16 This bill provides that the court-ordered procedure for  
17 work permits under Code section 321J.4 would also be available  
18 for persons determined to be a habitual offender in part  
19 because of one or more offenses under Code chapter 321J within  
20 a six-year period, in addition to persons determined to be a  
21 habitual offender solely because of Code chapter 321J  
22 offenses.

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