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SENATE FILE 389
BY DVORSKY, GRONSTAL, DELUHERY,
and HORN

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

A BILL FOR

1 An Act providing for the reclassification and changing of
2 penalties for certain misdemeanor offenses.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 389 JUDICIARY

1 Section 1. Section 123.47, subsection 3, Code 1999, is
2 amended to read as follows:

3 3. A person who is under legal age, other than a licensee
4 or permittee, who violates this section regarding the purchase
5 of or attempt to purchase alcoholic liquor, wine, or beer, or
6 possessing or having control of alcoholic liquor, wine, or
7 beer, commits a simple misdemeanor punishable by a fine of one
8 hundred dollars for the first offense. A second or subsequent
9 offense shall be a serious simple misdemeanor punishable by a
10 fine of two hundred dollars and the suspension of the person's
11 motor vehicle operating privileges for a period not to exceed
12 one year. The court may, in its discretion, order the person
13 who is under legal age to perform community service work under
14 section 909.3A, of an equivalent value to the fine imposed
15 under this section. However, if the person who commits the
16 violation of this section is under the age of eighteen, the
17 matter shall be disposed of in the manner provided in chapter
18 232.

19 Sec. 2. Section 321.218, subsection 3, Code 1999, is
20 amended to read as follows:

21 1. A person whose driver's license or operating privilege
22 has been denied, canceled, suspended, or revoked as provided
23 in this chapter or as provided in section 252J.8 or section
24 901.5, subsection 10, and who operates a motor vehicle upon
25 the highways of this state while the license or privilege is
26 denied, canceled, suspended, or revoked, commits a serious
27 simple misdemeanor. In addition to any other penalties, a
28 person sentenced under this subsection shall be assessed a
29 fine of not less than two hundred fifty dollars nor more than
30 one thousand five hundred dollars.

31 Sec. 3. Section 321.260, subsection 1, paragraph a, Code
32 1999, is amended to read as follows:

33 a. A person who willfully and intentionally, without
34 lawful authority, attempts to or in fact alters, defaces,
35 injures, knocks down, or removes an official traffic-control

1 device, an authorized warning sign or signal or barricade,
2 whether temporary or permanent, a railroad sign or signal, an
3 inscription, shield or insignia on any of such devices, signs,
4 signals, or barricades, or any other part thereof, shall, upon
5 conviction, be guilty of a serious simple misdemeanor and
6 shall be required to make restitution to the affected
7 jurisdiction.

8 Sec. 4. Section 321.260, subsection 2, Code 1999, is
9 amended to read as follows:

10 2. It shall be unlawful for any person to have in the
11 person's possession any official traffic-control device except
12 by legal right or authority. Any person convicted of
13 unauthorized possession of any official traffic-control device
14 shall upon conviction be guilty of a serious simple
15 misdemeanor.

16 Sec. 5. Section 321A.32, subsection 1, Code 1999, is
17 amended to read as follows:

18 1. Any person whose license or registration or
19 nonresident's operating privilege has been suspended, denied
20 or revoked under this chapter or continues to remain suspended
21 or revoked under this chapter, and who, during such
22 suspension, denial or revocation, or during such continuing
23 suspension or continuing revocation, drives any motor vehicle
24 upon any highway or knowingly permits any motor vehicle owned
25 by such person to be operated by another upon any highway,
26 except as permitted under this chapter, shall be guilty of a
27 serious simple misdemeanor. In addition to any other
28 penalties, a person sentenced under this subsection shall be
29 assessed a fine of not less than two hundred fifty dollars nor
30 more than one thousand five hundred dollars.

31 Sec. 6. Section 321J.21, subsection 1, Code 1999, is
32 amended to read as follows:

33 1. A person whose driver's license or nonresident
34 operating privilege has been suspended, denied, revoked, or
35 barred due to a violation of this chapter and who drives a

1 motor vehicle while the license or privilege is suspended,
2 denied, revoked, or barred commits a serious misdemeanor,
3 ~~punishable-with-a-mandatory.~~ In addition to any other
4 penalties, a person sentenced under this section shall be
5 assessed a fine of one thousand dollars.

6 Sec. 7. Section 461A.42, subsection 2, Code 1999, is
7 amended to read as follows:

8 2. The use of fireworks, as defined in section 727.2, in
9 state parks and preserves is prohibited except as authorized
10 by a permit issued by the department. The commission shall
11 establish, by rule adopted pursuant to chapter 17A, a
12 fireworks permit system which authorizes the issuance of a
13 limited number of permits to qualified persons to use or
14 display fireworks in selected state parks and preserves. A
15 person violating this subsection is guilty of a serious simple
16 misdemeanor. The court ~~may~~ shall order restitution for
17 damages caused by the violation which may include, but is not
18 limited to, community service. ~~The court may also require~~
19 ~~that the violator provide proof of restitution.~~

20 Sec. 8. Section 714.2, subsection 4, Code 1999, is amended
21 to read as follows:

22 4. The theft of property ~~exceeding one hundred dollars in~~
23 ~~value but~~ not exceeding five hundred dollars in value is theft
24 in the fourth degree. Theft in the fourth degree is a serious
25 simple misdemeanor.

26 Sec. 9. Section 714.2, subsection 5, Code 1999, is amended
27 by striking the subsection.

28 Sec. 10. Section 714.12, Code 1999, is amended to read as
29 follows:

30 714.12 FRAUDULENT PRACTICE IN THE FOURTH DEGREE.

31 Fraudulent practice in the fourth degree is a fraudulent
32 practice where the amount of money or value of property or
33 ~~services involved exceeds one hundred dollars but does not~~
34 exceed five hundred dollars.

35 Fraudulent practice in the fourth degree is a serious

1 simple misdemeanor.

2 Sec. 11. Section 716.6, Code 1999, is amended to read as
3 follows:

4 716.6 CRIMINAL MISCHIEF IN THE FOURTH AND-FIFTH-DEGREES
5 DEGREE.

6 Criminal mischief is criminal mischief in the fourth degree
7 if the cost of replacing, repairing, or restoring the property
8 so damaged, defaced, altered, or destroyed ~~exceeds-one-hundred~~
9 ~~dollars,~~ but does not exceed five hundred dollars. Criminal
10 mischief in the fourth degree is a serious simple misdemeanor.
11 ~~All-criminal-mischief-which-is-not-criminal-mischief-in-the~~
12 ~~first-degree,-second-degree,-third-degree,-or-fourth-degree-is~~
13 ~~criminal-mischief-in-the-fifth-degree.--Criminal-mischief-in~~
14 ~~the-fifth-degree-is-a-simple-misdemeanor.~~

15 Sec. 12. Section 716.8, subsection 2, Code 1999, is
16 amended to read as follows:

17 2. Any person committing a trespass as defined in section
18 716.7 which results in injury to any person or damage in an
19 amount more than one two hundred dollars to anything, animate
20 or inanimate, located thereon or therein commits a serious
21 misdemeanor.

22 Sec. 13. Section 716.8, subsection 4, Code 1999, is
23 amended to read as follows:

24 4. A person committing a trespass as defined in section
25 716.7 with the intent to commit a hate crime which results in
26 injury to any person or damage in an amount more than one two
27 hundred dollars to anything, animate or inanimate, located
28 thereon or therein commits an aggravated misdemeanor.

29 Sec. 14. Section 716A.7, Code 1999, is amended to read as
30 follows:

31 716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

32 Computer damage is computer damage in the fourth degree
33 when the damage results in a loss of property or services of
34 ~~more-than-one-hundred-dollars-but~~ not more than five hundred
35 dollars. Computer damage in the fourth degree is a serious

1 simple misdemeanor.

2 Sec. 15. Section 716A.13, Code 1999, is amended to read as
3 follows:

4 716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

5 Computer theft is computer theft in the fourth degree when
6 the theft involves or results in a loss of services or
7 property of ~~more-than-one-hundred-dollars-but~~ not more than
8 five hundred dollars. Computer theft in the fourth degree is
9 a serious simple misdemeanor.

10 Sec. 16. Section 719.1, subsection 1, Code 1999, is
11 amended to read as follows:

12 1. A person who knowingly resists or obstructs anyone
13 known by the person to be a peace officer, emergency medical
14 care provider under chapter 147A, or fire fighter, whether
15 paid or volunteer, in the performance of any act which is
16 within the scope of the lawful duty or authority of that
17 officer, emergency medical care provider under chapter 147A,
18 or fire fighter, whether paid or volunteer, or who knowingly
19 resists or obstructs the service or execution by any
20 authorized person of any civil or criminal process or order of
21 any court, commits a serious simple misdemeanor. However, if
22 a person commits an interference with official acts, as
23 defined in this subsection, and in so doing inflicts bodily
24 injury other than serious injury, that person commits an
25 aggravated misdemeanor. If a person commits an interference
26 with official acts, as defined in this subsection, and in so
27 doing inflicts or attempts to inflict serious injury, or
28 displays a dangerous weapon, as defined in section 702.7, or
29 is armed with a firearm, that person commits a class "D"
30 felony.

31 Sec. 17. Section 727.2, unnumbered paragraph 2, Code 1999,
32 is amended to read as follows:

33 A person, firm, copartnership, or corporation who offers
34 for sale, exposes for sale, sells at retail, or uses or
35 explodes any fireworks, commits a serious simple misdemeanor.

1 However, the council of a city or a county board of
2 supervisors may, upon application in writing, grant a permit
3 for the display of fireworks by municipalities, fair
4 associations, amusement parks, and other organizations or
5 groups of individuals approved by the city or the county board
6 of supervisors when the fireworks display will be handled by a
7 competent operator, but no such permit shall be required for
8 the display of fireworks at the Iowa state fairgrounds by the
9 Iowa state fair board, at incorporated county fairs, or at
10 district fairs receiving state aid. Sales of fireworks for
11 such display may be made for that purpose only.

12 Sec. 18. Section 730.4, subsection 6, Code 1999, is
13 amended to read as follows:

14 6. A person who violates this section commits a **serious**
15 simple misdemeanor.

16 Sec. 19. Sections 714.13, 716A.8, and 716A.14, Code 1999,
17 are repealed.

18 EXPLANATION

19 This bill reclassifies and makes changes in the penalties
20 for certain misdemeanors.

21 The bill reclassifies certain driving under suspension
22 offenses from serious to simple misdemeanors and reclassifies
23 from serious to simple misdemeanors the following offenses:
24 use of fireworks, persons under legal age purchasing or in
25 possession of alcohol (second or subsequent offense),
26 polygraph examinations by employers, certain interference with
27 official acts offenses, and interference with signs or
28 signals.

29 The bill provides discretion to the court to impose a jail
30 sentence in addition to ordering a mandatory fine, for persons
31 who commit the offense of driving under suspension or
32 revocation or driving while barred under Code section 321J.21.
33 Under current law, persons who violate Code section 321J.21
34 may only be assessed a mandatory \$1,000 fine. A person whose
35 driver's license has been suspended, revoked, or barred and is

1 subsequently convicted under Code section 321J.21, generally
2 has been suspended, revoked, or barred due to a previous
3 operating while intoxicated conviction.

4 The bill also changes the threshold dollar limit for
5 persons to qualify for a simple misdemeanor with respect to
6 acts which constitute theft, fraudulent practice, computer
7 damage, computer theft, criminal trespass, and criminal
8 mischief. If a person commits theft, fraudulent practice,
9 computer damage, computer theft, or criminal mischief and the
10 value of the property is no more than \$500, the person commits
11 a simple misdemeanor under the bill. The bill eliminates the
12 serious misdemeanor offenses for theft, fraudulent practice,
13 computer damage, computer theft, and criminal mischief by
14 including the offense within the simple misdemeanor offense.
15 Under current law, if the value of the property is no more
16 than \$100, the person commits a simple misdemeanor or if the
17 value of the property is under \$500, the person commits a
18 serious misdemeanor.

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