

FEB 21 2003
Place On Calendar

HOUSE FILE 265
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 89)

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

A BILL FOR

1 An Act relating to the withdrawal of blood without a warrant from
2 a person under arrest for an operating-while-intoxicated
3 offense when the arrest results from a traffic accident
4, resulting in death or personal injury reasonably likely to
5 cause death.

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

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HF-265

1 Section 1. NEW SECTION. 321J.10A BLOOD WITHDRAWAL
2 WITHOUT A WARRANT.

3 Notwithstanding section 321J.10, if a person is under
4 arrest for an offense arising out of acts alleged to have been
5 committed while the person was operating a motor vehicle in
6 violation of section 321J.2 or 321J.2A, and that arrest
7 results from an accident that causes a death or personal
8 injury reasonably likely to cause death, a chemical test of
9 blood may be administered without the consent of the person
10 arrested to determine the amount of alcohol or a controlled
11 substance in that person's blood if all of the following
12 circumstances exist:

13 1. The peace officer reasonably believes the blood drawn
14 will produce evidence of intoxication.

15 2. The method used to take the blood sample is reasonable
16 and performed in a reasonable manner by medical personnel
17 under section 321J.11.

18 3. The peace officer reasonably believes the officer is
19 confronted with an emergency situation in which the delay
20 necessary to obtain a warrant under section 321J.10 threatens
21 the destruction of the evidence.

22 EXPLANATION

23 This bill provides that if a person is under arrest for a
24 drunk-driving-related violation, and that arrest results from
25 an accident that causes a death or personal injury reasonably
26 likely to cause death, a chemical blood test may be
27 administered to the person arrested, without that person's
28 consent, to determine the amount of alcohol or a controlled
29 substance in the person's blood if: (1) the peace officer
30 reasonably believes the blood drawn will produce evidence of
31 intoxication; (2) the method used to take the blood sample is
32 reasonable and performed in a reasonable manner by medical
33 personnel; and (3) the peace officer reasonably believes the
34 officer is confronted with an emergency situation in which the
35 delay necessary to obtain a warrant threatens the destruction

1 of the evidence.

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HOUSE FILE 265

H-1023

1 Amend House File 265 as follows:
2 1. Page 1, by inserting after line 21 the
3 following:
4 "4. The peace officer and the medical personnel
5 are reasonably unaware of any legitimate health or
6 religious reason why the person's blood should not be
7 taken for the sample."

By HOGG of Linn

H-1023 FILED FEBRUARY 25, 2003

Withdrawn

HOUSE FILE 265

H-1024

1 Amend House File 265 as follows:
2 1. Page 1, by inserting after line 21 the
3 following:
4 "4. The circumstances do not reasonably allow for
5 the taking of a specimen of the defendant's breath or
6 urine."

By HOGG of Linn

H-1024 FILED FEBRUARY 25, 2003

Withdrawn

HOUSE FILE 265

H-1030

1 Amend House File 265 as follows:
2 1. Page 1, by inserting after line 21, the
3 following:
4 "4. If the person from whom a specimen of blood is
5 to be withdrawn objects to the withdrawal, a breath or
6 urine sample may be taken under the following
7 circumstances:
8 a. If the person is capable of giving a specimen
9 of breath, and a direct breath testing instrument is
10 readily available, the withdrawal of a specimen of the
11 person's breath may be taken for chemical testing,
12 unless the peace officer has reasonable grounds to

13 believe that the person was under the influence of a
14 controlled substance, a drug other than alcohol, or a
15 combination of alcohol and another drug.
16 b. If the peace officer has reasonable grounds to
17 believe that the person was under the influence of a
18 controlled substance, a drug other than alcohol, or a
19 combination of alcohol and another drug, a urine
20 sample shall be collected in lieu of a blood sample,
21 if the person is capable of giving a urine sample and
22 the sample can be collected."

By KLEMME of Plymouth
HOGG of Linn

H-1030 FILED FEBRUARY 27, 2003
Adopted

HOUSE FILE 265

H-1033

1 Amend the amendment, H-1030, to House File 265 as
2 follows:
3 1. Page 1, by inserting after line 1, the
4 following:
5 "_____. Page 1, line 3, by inserting before the
6 word "Notwithstanding" the following: "1."
7 _____. Page 1, line 13, by striking the figure "1."
8 and inserting the following: "a."
9 _____. Page 1, line 15, by striking the figure "2."
10 and inserting the following: "b."
11 _____. Page 1, line 18, by striking the figure "3."
12 and inserting the following: "c."
13 2. Page 1, line 4, by striking the figure "4."
14 and inserting the following: "2."
15 3. By renumbering as necessary.

By KLEMME of Plymouth
HOGG of Linn

H-1033 FILED MARCH 4, 2003
ADOPTED

HOUSE FILE 265
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 89)

(As Amended and Passed by the House March 4, 2003)

Passed House, Date Passed 3/4/03 Passed Senate, Date 4/07/04
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved 4/26/04

A BILL FOR

1 An Act relating to the withdrawal of blood without a warrant from
2 a person under arrest for an operating-while-intoxicated
3 offense when the arrest results from a traffic accident
4 resulting in death or personal injury reasonably likely to
5 cause death.

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

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House Amendments _____

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1 Section 1. NEW SECTION. 321J.10A BLOOD WITHDRAWAL
2 WITHOUT A WARRANT.

3 1. Notwithstanding section 321J.10, if a person is under
4 arrest for an offense arising out of acts alleged to have been
5 committed while the person was operating a motor vehicle in
6 violation of section 321J.2 or 321J.2A, and that arrest
7 results from an accident that causes a death or personal
8 injury reasonably likely to cause death, a chemical test of
9 blood may be administered without the consent of the person
10 arrested to determine the amount of alcohol or a controlled
11 substance in that person's blood if all of the following
12 circumstances exist:

13 a. The peace officer reasonably believes the blood drawn
14 will produce evidence of intoxication.

15 b. The method used to take the blood sample is reasonable
16 and performed in a reasonable manner by medical personnel
17 under section 321J.11.

18 c. The peace officer reasonably believes the officer is
19 confronted with an emergency situation in which the delay
20 necessary to obtain a warrant under section 321J.10 threatens
21 the destruction of the evidence.

22 2. If the person from whom a specimen of blood is to be
23 withdrawn objects to the withdrawal, a breath or urine sample
24 may be taken under the following circumstances:

25 a. If the person is capable of giving a specimen of
26 breath, and a direct breath testing instrument is readily
27 available, the withdrawal of a specimen of the person's breath
28 may be taken for chemical testing, unless the peace officer
29 has reasonable grounds to believe that the person was under
30 the influence of a controlled substance, a drug other than
31 alcohol, or a combination of alcohol and another drug.

32 b. If the peace officer has reasonable grounds to believe
33 that the person was under the influence of a controlled
34 substance, a drug other than alcohol, or a combination of
35 alcohol and another drug, a urine sample shall be collected in

1 lieu of a blood sample, if the person is capable of giving a
2 urine sample and the sample can be collected.

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Klemme, Chair
Ford
Sands

Succeeded By
S. O 265

HSB 89
PUBLIC SAFETY

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON PUBLIC
SAFETY BILL BY CHAIRPERSON
BAUDLER)

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

A BILL FOR

1 An Act relating to the withdrawal of blood without a warrant from
2 a person under arrest for an operating-while-intoxicated
3 offense when the arrest results from a traffic accident
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6 violation of section 321J.2 or 321J.2A, and that arrest
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18 3. The peace officer reasonably believes the officer is
19 confronted with an emergency situation in which the delay
20 necessary to obtain a warrant under section 321J.10 threatens
21 the destruction of the evidence.

22 EXPLANATION

23 This bill provides that if a person is under arrest for a
24 drunk-driving-related violation, and that arrest results from
25 an accident that causes a death or personal injury reasonably
26 likely to cause death, a chemical blood test may be
27 administered to the person arrested, without that person's
28 consent, to determine the amount of alcohol or a controlled
29 substance in the person's blood if: (1) the peace officer
30 reasonably believes the blood drawn will produce evidence of
31 intoxication; (2) the method used to take the blood sample is
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35 delay necessary to obtain a warrant threatens the destruction

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HOUSE FILE 265

AN ACT

RELATING TO THE WITHDRAWAL OF BLOOD WITHOUT A WARRANT FROM A PERSON UNDER ARREST FOR AN OPERATING-WHILE-INTOXICATED OFFENSE WHEN THE ARREST RESULTS FROM A TRAFFIC ACCIDENT RESULTING IN DEATH OR PERSONAL INJURY REASONABLY LIKELY TO CAUSE DEATH.

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

Section 1. NEW SECTION. 321J.10A BLOOD WITHDRAWAL WITHOUT A WARRANT.

1. Notwithstanding section 321J.10, if a person is under arrest for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle in violation of section 321J.2 or 321J.2A, and that arrest results from an accident that causes a death or personal injury reasonably likely to cause death, a chemical test of blood may be administered without the consent of the person arrested to determine the amount of alcohol or a controlled substance in that person's blood if all of the following circumstances exist:

- a. The peace officer reasonably believes the blood drawn will produce evidence of intoxication.
- b. The method used to take the blood sample is reasonable and performed in a reasonable manner by medical personnel under section 321J.11.
- c. The peace officer reasonably believes the officer is confronted with an emergency situation in which the delay necessary to obtain a warrant under section 321J.10 threatens the destruction of the evidence.

2. If the person from whom a specimen of blood is to be withdrawn objects to the withdrawal, a breath or urine sample may be taken under the following circumstances:

- a. If the person is capable of giving a specimen of breath, and a direct breath testing instrument is readily

available, the withdrawal of a specimen of the person's breath may be taken for chemical testing, unless the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug.

b. If the peace officer has reasonable grounds to believe that the person was under the influence of a controlled substance, a drug other than alcohol, or a combination of alcohol and another drug, a urine sample shall be collected in lieu of a blood sample, if the person is capable of giving a urine sample and the sample can be collected.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 265, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2004

THOMAS J. VILSACK
Governor