

JAN 27 2003

Place On Calendar

HOUSE FILE 65

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 5)

(COMPANION TO SF 37 BY

COMMITTEE ON JUDICIARY)

Passed House, Date Passed

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing for a .08 blood alcohol concentration limit for
2 motor vehicle operating while intoxicated offenses.

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

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HF 65

1 Section 1. Section 321J.2, subsection 1, paragraph b, Code
2 2003, is amended to read as follows:

3 b. While having an alcohol concentration of ~~±~~ .08 or
4 more.

5 Sec. 2. Section 321J.6, subsection 1, paragraph g, Code
6 2003, is amended to read as follows:

7 g. The preliminary breath screening test was administered
8 and it indicated an alcohol concentration of .02 or more but
9 less than ~~±~~ .08 and the person is under the age of twenty-
10 one.

11 Sec. 3. Section 321J.12, subsection 5, Code 2003, is
12 amended to read as follows:

13 5. Upon certification, subject to penalty of perjury, by
14 the peace officer that there existed reasonable grounds to
15 believe that the person had been operating a motor vehicle in
16 violation of section 321J.2A, that there existed one or more
17 of the necessary conditions for chemical testing described in
18 section 321J.6, subsection 1, and that the person submitted to
19 chemical testing and the test results indicated an alcohol
20 concentration ~~as defined in section 321J.2~~ of .02 or more but
21 less than ~~±~~ .08, the department shall revoke the person's
22 driver's license or operating privilege for a period of sixty
23 days if the person has had no previous revocation under this
24 chapter, and for a period of ninety days if the person has had
25 a previous revocation under this chapter.

26 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection
27 3, shall not apply to this Act.

28 EXPLANATION

29 This bill reduces the limit for blood alcohol concentration
30 (BAC) while driving a motor vehicle from .10 BAC to .08 BAC.
31 Under the bill, a person who drives with .08 BAC or higher
32 would violate Code section 321J.2, the operating while
33 intoxicated statute.

34 The bill may include a state mandate as defined in Code
35 section 25B.3. The bill makes inapplicable Code section

1 25B.2, subsection 3, which would relieve a political
2 subdivision from complying with a state mandate if funding for
3 the cost of the state mandate is not provided or specified.
4 Therefore, political subdivisions are required to comply with
5 any state mandate included in the bill.

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H-1005

1 Amend House File 65 as follows:

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

4 "Sec. ____ . Section 321J.2, Code 2003, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 2A. a. Notwithstanding
7 subsection 2, paragraph "a", subparagraph (3), a
8 person whose alcohol concentration established by the
9 results of an analysis of the defendant's blood,
10 breath, or urine withdrawn in accordance with this
11 chapter is .08 or more but is not more than .10 shall
12 be subject to a revocation of the person's driver's
13 license for a minimum revocation period of one hundred
14 eighty days, with no period of ineligibility for a
15 temporary restricted license.

16 b. This subsection shall not apply to a person who
17 is under the age of twenty-one who operates a motor
18 vehicle while having an alcohol concentration of .02
19 or more pursuant to section 321J.2A, to a person who
20 refuses to submit to chemical testing pursuant to
21 section 321J.9, or to a person who is convicted of or
22 pleads guilty to a violation of section 707.6A.

23 Sec. ____ . Section 321J.4, subsection 1, Code 2003,
24 is amended to read as follows:

25 1. If a defendant is convicted of a violation of
26 section 321J.2 and the defendant's driver's license or
27 nonresident operating privilege has not been revoked
28 under section 321J.9 or 321J.12 for the occurrence
29 from which the arrest arose, the department shall
30 revoke the defendant's driver's license or nonresident
31 operating privilege for one hundred eighty days if the
32 defendant has had no previous conviction or revocation
33 under this chapter. The Except as provided in section
34 321J.2, subsection 2A, the defendant shall not be
35 eligible for any temporary restricted license for at
36 least thirty days after the effective date of the
37 revocation if a test was obtained, and for at least
38 ninety days if a test was refused. If the defendant
39 is under the age of twenty-one, the defendant shall
40 not be eligible for a temporary restricted license for
41 at least sixty days after the effective date of
42 revocation."

43 2. Page 1, by inserting after line 10, the
44 following:

45 "Sec. ____ . Section 321J.12, subsection 2, Code
46 2003, is amended to read as follows:

47 2. A Except as provided in section 321J.2,
48 subsection 2A, a person whose driver's license or
49 nonresident operating privileges have been revoked
50 under subsection 1, paragraph "a", shall not be

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1 eligible for any temporary restricted license for at
2 least thirty days after the effective date of the
3 revocation. If the person is under the age of twenty-
4 one, the person shall not be eligible for a temporary
5 restricted license for at least sixty days after the
6 effective date of the revocation. A person whose
7 license or privileges have been revoked under
8 subsection 1, paragraph "b", for one year shall not be
9 eligible for any temporary restricted license for one
10 year after the effective date of the revocation."
11 3. By renumbering as necessary.

By SHOULTZ of Black Hawk

H-1005 FILED JANUARY 28, 2003

Withdrawn

HOUSE FILE 65

H-1008

1 Amend House File 65 as follows:
2 1. Page 1, by inserting after line 25 the
3 following:
4 "Sec. ____ . NEW SECTION. 321J.2C PERSONS FOUND
5 NOT GUILTY.
6 1. Notwithstanding any other provision of this
7 chapter to the contrary, if any prosecution for a
8 violation of section 321J.2 or 321J.2A does not result
9 in a conviction, and the defendant's driver's license
10 or nonresident operating privilege has been revoked
11 under section 321J.9 or 321J.12 for the occurrence
12 from which the arrest arose, the department shall,
13 upon receipt of the court order finding the defendant
14 not guilty, immediately rescind the revocation order
15 and reinstate the defendant's license.
16 2. Notwithstanding section 321.12 or any other
17 provision of chapter 321 or 321J to the contrary, the
18 director shall immediately destroy any operating
19 records pertaining to a revocation under section
20 321J.9 or 321J.12 for the occurrence from which an
21 arrest arose when the defendant was subsequently
22 prosecuted and found not guilty upon receipt of the
23 court order finding the defendant not guilty."
24 2. Title page, line 1, by striking the words and
25 figure "providing for a .08 blood alcohol
26 concentration limit for" and inserting the following:
27 "relating to".
28 3. By renumbering as necessary.

By SHOULTZ of Black Hawk

H-1008 FILED FEBRUARY 5, 2003

Withdrawn

H-1009

1 Amend House File 65 as follows:

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

4 "Sec. ____ . Section 321J.2, subsection 2, paragraph
5 a, subparagraph (3), Code 2003, is amended to read as
6 follows:

7 (3) Revocation of the person's driver's license
8 pursuant to section 321J.4, subsection 1, section
9 321J.9, or section 321J.12, subsection 2, which
10 includes a minimum revocation period of one hundred
11 eighty days, including a minimum period of
12 ineligibility for a temporary restricted license of
13 thirty days, and may involve a revocation period of
14 one year. The defendant shall not be eligible for any
15 temporary restricted license for at least thirty days
16 if a test was obtained, and an accident resulting in
17 personal injury or property damage occurred or the
18 defendant's alcohol concentration exceeded .15. There
19 shall be no such period of ineligibility if no such
20 accident occurred and the defendant's alcohol
21 concentration did not exceed .15. A revocation under
22 section 321J.9 includes a minimum period of
23 ineligibility for a temporary restricted license of
24 ninety days.

25 Sec. ____ . Section 321J.4, subsections 1 and 3,
26 Code 2003, are amended to read as follows:

27 1. If a defendant is convicted of a violation of
28 section 321J.2 and the defendant's driver's license or
29 nonresident operating privilege has not been revoked
30 under section 321J.9 or 321J.12 for the occurrence
31 from which the arrest arose, the department shall
32 revoke the defendant's driver's license or nonresident
33 operating privilege for one hundred eighty days if the
34 defendant has had no previous conviction or revocation
35 under this chapter. The defendant shall not be
36 eligible for any temporary restricted license ~~for at~~
37 ~~least thirty days after the effective date of the~~
38 ~~revocation if a test was obtained and for at least~~
39 ninety days if a test was refused under section
40 321J.9. The defendant shall be not eligible for any
41 temporary restricted license for at least thirty days
42 if a test was obtained, and an accident resulting in
43 personal injury or property damage occurred or the
44 defendant's alcohol concentration exceeded .15. There
45 shall be no such period of ineligibility if no such
46 accident occurred and the defendant's alcohol
47 concentration did not exceed .15. The department
48 shall not require the defendant to install an ignition
49 interlock device as a condition precedent to receiving
50 a temporary restricted license unless the court so

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1 orders, pursuant to subsection 8. If the defendant is
2 under the age of twenty-one, the defendant shall not
3 be eligible for a temporary restricted license for at
4 least sixty days after the effective date of
5 revocation.

6 3. If the court defers judgment pursuant to
7 section 907.3 for a violation of section 321J.2, and
8 if the defendant's driver's license or nonresident
9 operating privilege has not been revoked under section
10 321J.9 or 321J.12, or has not otherwise been revoked
11 for the occurrence from which the arrest arose, the
12 department shall revoke the defendant's driver's
13 license or nonresident operating privilege for a
14 period of not less than thirty days nor more than
15 ninety days. The defendant shall not be eligible for
16 any temporary restricted license for at least ~~thirty~~
17 ~~days after the effective date of the revocation if a~~
18 ~~test was obtained and for at least ninety days if a~~
19 test was refused. The defendant shall not be eligible
20 for any temporary restricted license for at least
21 thirty days if a test was obtained, and an accident
22 resulting in personal injury or property damage
23 occurred or the defendant's alcohol concentration
24 exceeded .15. There shall be no such period of
25 ineligibility if no such accident occurred and the
26 defendant's alcohol concentration did not exceed .15.
27 The department shall not require the defendant to
28 install an ignition interlock device as a condition
29 precedent to receiving a temporary restricted license
30 unless the court so orders, pursuant to subsection 8.
31 If the defendant is under the age of twenty-one, the
32 defendant shall not be eligible for a temporary
33 restricted license for at least sixty days after the
34 effective date of the revocation."

35 2. Page 1, by inserting after line 10 the
36 following:

37 "Sec. ____ . Section 321J.12, subsection 2, Code
38 2003, is amended to read as follows:

39 2. A person whose driver's license or nonresident
40 operating privileges have been revoked under
41 subsection 1, paragraph "a", shall not be eligible for
42 any temporary restricted license for at least thirty
43 days after the effective date of the revocation if an
44 accident resulting in personal injury or property
45 damage occurred and the defendant's alcohol
46 concentration exceeded .15. There shall be no such
47 period of ineligibility if no such accident occurred
48 and the defendant's alcohol concentration did not
49 exceed .15. The department shall not require the
50 defendant to install an ignition interlock device as a

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Page 3

1 condition precedent to receiving a temporary
2 restricted license unless the court so orders,
3 pursuant to section 321J.4, subsection 8. If the
4 person is under the age of twenty-one, the person
5 shall not be eligible for a temporary restricted
6 license for at least sixty days after the effective
7 date of the revocation. A person whose license or
8 privileges have been revoked under subsection 1,
9 paragraph "b", for one year shall not be eligible for
10 any temporary restricted license for one year after
11 the effective date of the revocation."

12 3. Page 1, by inserting after line 25 the
13 following:

14 "Sec. ____ . Section 321J.20, subsection 6, Code
15 2003, is amended to read as follows:

16 6. Following certain minimum periods of
17 ineligibility, a temporary restricted license under
18 this section shall not be issued until such time as
19 the applicant installs an ignition interlock device of
20 a type approved by the commissioner of public safety
21 on all motor vehicles owned or operated by the
22 applicant, in accordance with section 321J.4,
23 subsections 2 and 4. Installation of an ignition
24 interlock device under this section shall be required
25 for the period of time for which the temporary
26 restricted license is issued."

27 4. Title page, line 1, by striking the words and
28 figure "providing for a .08 blood alcohol
29 concentration limit for" and inserting the following:
30 "relating to".

31 5. By renumbering as necessary.

By HORBACH of Tama

H-1009 FILED FEBRUARY 5, 2003

Withdrawn

HOUSE FILE 65

H-1011

1 Amend House File 65 as follows:

2 1. Page 1, by inserting after line 27, the
3 following:

4 "Sec. ____ . EFFECTIVE DATE. This Act takes effect
5 September 30, 2003."

6 2. Title page, line 2, by inserting after the
7 word "offenses" the following: "and providing for an
8 effective date".

9 3. By renumbering as necessary.

By HORBACH of Tama

H-1011 FILED FEBRUARY 5, 2003

Withdrawn

H-1010

1 Amend House File 65 as follows:

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

4 "Sec. ____ . Section 321J.2, subsection 2, paragraph
5 a, subparagraph (3), Code 2003, is amended to read as
6 follows:

7 (3) Revocation of the person's driver's license
8 pursuant to section 321J.4, subsection 1, section
9 321J.9, or section 321J.12, subsection 2, which
10 includes a minimum revocation period of one hundred
11 eighty days, ~~including a minimum period of~~
12 ~~ineligibility for a temporary restricted license of~~
13 ~~thirty days~~, and may involve a revocation period of
14 one year. The defendant shall not be eligible for any
15 temporary restricted license for at least thirty days
16 if a test was obtained, and an accident resulting in
17 personal injury or property damage occurred or the
18 defendant's alcohol concentration exceeded .15. There
19 shall be no such period of ineligibility if no such
20 accident occurred and the defendant's alcohol
21 concentration did not exceed .15. A revocation under
22 section 321J.9 includes a minimum period of
23 ineligibility for a temporary restricted license of
24 ninety days. The defendant shall be ordered to
25 install an ignition interlock device of a type
26 approved by the commissioner of public safety on all
27 vehicles owned by the defendant if the defendant seeks
28 a temporary license.

29 Sec. ____ . Section 321J.4, subsections 1 and 3,
30 Code 2003, are amended to read as follows:

31 1. If a defendant is convicted of a violation of
32 section 321J.2 and the defendant's driver's license or
33 nonresident operating privilege has not been revoked
34 under section 321J.9 or 321J.12 for the occurrence
35 from which the arrest arose, the department shall
36 revoke the defendant's driver's license or nonresident
37 operating privilege for one hundred eighty days if the
38 defendant has had no previous conviction or revocation
39 under this chapter. The defendant shall not be
40 eligible for any temporary restricted license ~~for at~~
41 ~~least thirty days after the effective date of the~~
42 ~~revocation if a test was obtained and~~ for at least
43 ninety days if a test was refused under section
44 321J.9. The defendant shall be not eligible for any
45 temporary restricted license for at least thirty days
46 if a test was obtained, and an accident resulting in
47 personal injury or property damage occurred or the
48 defendant's alcohol concentration exceeded .15. There
49 shall be no such period of ineligibility if no such
50 accident occurred and the defendant's alcohol

1 concentration did not exceed .15. The defendant shall
2 be ordered to install an ignition interlock device of
3 a type approved by the commissioner of public safety
4 on all vehicles owned by the defendant if the
5 defendant seeks a temporary restricted license. If
6 the defendant is under the age of twenty-one, the
7 defendant shall not be eligible for a temporary
8 restricted license for at least sixty days after the
9 effective date of revocation.

10 3. If the court defers judgment pursuant to
11 section 907.3 for a violation of section 321J.2, and
12 if the defendant's driver's license or nonresident
13 operating privilege has not been revoked under section
14 321J.9 or 321J.12, or has not otherwise been revoked
15 for the occurrence from which the arrest arose, the
16 department shall revoke the defendant's driver's
17 license or nonresident operating privilege for a
18 period of not less than thirty days nor more than
19 ninety days. The defendant shall not be eligible for
20 any temporary restricted license for at least thirty
21 ~~days after the effective date of the revocation if a~~
22 ~~test was obtained and for at least ninety days if a~~
23 test was refused. The defendant shall not be eligible
24 for any temporary restricted license for a least
25 thirty days if a test was obtained, and an accident
26 resulting in personal injury or property damage
27 occurred or the defendant's alcohol concentration
28 exceeded .15. There shall be no such period of
29 ineligibility if no such accident occurred and the
30 defendant's alcohol concentration did not exceed .15.
31 The defendant shall be ordered to install an ignition
32 interlock device of a type approved by the
33 commissioner of public safety on all vehicles owned by
34 the defendant if the defendant seeks a temporary
35 restricted license. If the defendant is under the age
36 of twenty-one, the defendant shall not be eligible for
37 a temporary restricted license for at least sixty days
38 after the effective date of the revocation."

39 2. Page 1, by inserting after line 10 the
40 following:

41 "Sec. ____ . Section 321J.12, subsection 2, Code
42 2003, is amended to read as follows:

43 2. a. A person whose driver's license or
44 nonresident operating privileges have been revoked
45 under subsection 1, paragraph "a", shall not be
46 eligible for any temporary restricted license for at
47 least thirty days after the effective date of the
48 revocation if an accident resulting in personal injury
49 or property damage occurred or the defendant's alcohol
50 concentration exceeded .15. There shall be no such

1 period of ineligibility if no such accident occurred
 2 and the defendant's alcohol concentration did not
 3 exceed .15. If the person is under the age of twenty-
 4 one, the person shall not be eligible for a temporary
 5 restricted license for at least sixty days after the
 6 effective date of the revocation. A person whose
 7 license or privileges have been revoked under
 8 subsection 1, paragraph "b", for one year shall not be
 9 eligible for any temporary restricted license for one
 10 year after the effective date of the revocation.

11 b. The defendant shall be ordered to install an
 12 ignition interlock device of a type approved by the
 13 commissioner of public safety on all vehicles owned or
 14 operated by the defendant if the defendant seeks a
 15 temporary restricted license at the end of the minimum
 16 period of ineligibility. A temporary restricted
 17 license shall not be granted by the department until
 18 the defendant installs the ignition interlock device."

19 3. Page 1, by inserting after line 25 the
 20 following:

21 "Sec. ____ . Section 321J.20, subsection 6, Code
 22 2003, is amended to read as follows:

23 6. Following certain minimum periods of
 24 ineligibility, a temporary restricted license under
 25 this section shall not be issued until such time as
 26 the applicant installs an ignition interlock device of
 27 a type approved by the commissioner of public safety
 28 on all motor vehicles owned or operated by the
 29 applicant, in accordance with section 321J.2, 321J.4,
 30 321J.9, or 321J.12. Installation of an ignition
 31 interlock device under this section shall be required
 32 for the period of time for which the temporary
 33 restricted license is issued."

34 4. Title page, line 1, by striking the words and
 35 figure "providing for a .08 blood alcohol
 36 concentration limit for" and inserting the following:
 37 "relating to".

38 5. By renumbering as necessary.

By BAUDLER of Adair

H-1010 FILED FEBRUARY 5, 2003

Adopted

HOUSE FILE 65

H-1013

1 Amend the amendment, H-1005, to House File 65 as
 2 follows:

3 1. Page 1, line 15, by inserting after the word
 4 "license" the following: "unless an accident
 5 resulting in personal injury or property damage
 6 occurred or the defendant's alcohol concentration
 7 exceeded .10".

By SHOULTZ of Black Hawk

H-1013 FILED FEBRUARY 6, 2003
 OUT OF ORDER

H-1014

1 Amend the amendment, H-1010, to House File 65 as
2 follows:

3 1. Page 1, by striking lines 14 through 28 and
4 inserting the following:

5 "one year. A revocation under section 321J.9
6 includes a minimum period of ineligibility for a
7 temporary restricted license of ninety days.

8 (a) A defendant whose alcohol concentration is .08
9 or more but not more than .10 shall not be eligible
10 for any temporary restricted license for at least
11 thirty days if a test was obtained and an accident
12 resulting in personal injury or property damage
13 occurred. The defendant shall be ordered to install
14 an ignition interlock device of a type approved by the
15 commissioner of public safety on all vehicles owned by
16 the defendant if the defendant seeks a temporary
17 restricted license. There shall be no such period of
18 ineligibility if no such accident occurred, and the
19 defendant shall not be ordered to install an ignition
20 interlock device.

21 (b) A defendant whose alcohol concentration is
22 more than .10 shall not be eligible for any temporary
23 restricted license for at least thirty days if a test
24 was obtained, and an accident resulting in personal
25 injury or property damage occurred or the defendant's
26 alcohol concentration exceeded .15. There shall be no
27 such period of ineligibility if no such accident
28 occurred and the defendant's alcohol concentration did
29 not exceed .15. In either case, where a defendant's
30 alcohol concentration is more than .10, the defendant
31 shall be ordered to install an ignition interlock
32 device of a type approved by the commissioner of
33 public safety on all vehicles owned by the defendant
34 if the defendant seeks a temporary restricted
35 license."

36 2. By striking page 1, line 44, through page 2,
37 line 5, and inserting the following:

38 "321J.9.

39 a. A defendant whose alcohol concentration is .08
40 or more but not more than .10 shall not be eligible
41 for any temporary restricted license for at least
42 thirty days if a test was obtained and an accident
43 resulting in personal injury or property damage
44 occurred. The defendant shall be ordered to install
45 an ignition interlock device of a type approved by the
46 commissioner of public safety on all vehicles owned by
47 the defendant if the defendant seeks a temporary
48 restricted license. There shall be no such period of
49 ineligibility if no such accident occurred, and the
50 defendant shall not be ordered to install an ignition

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1 interlock device.

2 b. A defendant whose alcohol concentration is more
3 than .10 shall not be eligible for any temporary
4 restricted license for at least thirty days if a test
5 was obtained, and an accident resulting in personal
6 injury or property damage occurred or the defendant's
7 alcohol concentration exceeded .15. There shall be no
8 such period of ineligibility if no such accident
9 occurred and the defendant's alcohol concentration did
10 not exceed .15. In either case, where a defendant's
11 alcohol concentration is more than .10, the defendant
12 shall be ordered to install an ignition interlock
13 device of a type approved by the commissioner of
14 public safety on all vehicles owned by the defendant
15 if the defendant seeks a temporary restricted license.

16 c. If".

17 3. Page 2, by striking lines 23 through 35 and
18 inserting the following:

19 "test was refused.

20 a. A defendant whose alcohol concentration is .08
21 or more but not more than .10 shall not be eligible
22 for any temporary restricted license for at least
23 thirty days if a test was obtained and an accident
24 resulting in personal injury or property damage
25 occurred. The defendant shall be ordered to install
26 an ignition interlock device of a type approved by the
27 commissioner of public safety on all vehicles owned by
28 the defendant if the defendant seeks a temporary
29 restricted license. There shall be no such period of
30 ineligibility if no such accident occurred, and the
31 defendant shall not be ordered to install an ignition
32 interlock device.

33 b. A defendant whose alcohol concentration is more
34 than .10 shall not be eligible for any temporary
35 restricted license for at least thirty days if a test
36 was obtained, and an accident resulting in personal
37 injury or property damage occurred or the defendant's
38 alcohol concentration exceeded .15. There shall be no
39 such period of ineligibility if no such accident
40 occurred and the defendant's alcohol concentration did
41 not exceed .15. In either case, where a defendant's
42 alcohol concentration is more than .10, the defendant
43 shall be ordered to install an ignition interlock
44 device of a type approved by the commissioner of
45 public safety on all vehicles owned by the defendant
46 if the defendant seeks a temporary restricted license.

47 c. If the defendant is under the age".

48 4. By striking page 2, line 43, through page 3,
49 line 18, and inserting the following:

50 "2. a. A person whose driver's license or

1 nonresident operating privileges have been revoked
2 under subsection 1, paragraph "a", whose alcohol
3 concentration is .08 or more but not more than .10
4 shall not be eligible for any temporary restricted
5 license for at least thirty days after the effective
6 date of the revocation if a test was obtained and an
7 accident resulting in personal injury or property
8 damage occurred. The defendant shall be ordered to
9 install an ignition interlock device of a type
10 approved by the commissioner of public safety on all
11 vehicles owned by the defendant if the defendant seeks
12 a temporary license. There shall be no such period of
13 ineligibility if no such accident occurred, and the
14 defendant shall not be ordered to install an ignition
15 interlock device.

16 b. A defendant whose alcohol concentration is more
17 than .10 shall not be eligible for any temporary
18 restricted license for at least thirty days if a test
19 was obtained, and an accident resulting in personal
20 injury or property damage occurred or the defendant's
21 alcohol concentration exceeded .15. There shall be no
22 such period of ineligibility if no such accident
23 occurred and the defendant's alcohol concentration did
24 not exceed .15. In either case, where a defendant's
25 alcohol concentration is more than .10, the defendant
26 shall be ordered to install an ignition interlock
27 device of a type approved by the commissioner of
28 public safety on all vehicles owned by the defendant
29 if the defendant seeks a temporary restricted license.

30 c. If the person is under the age of twenty-one,
31 the person shall not be eligible for a temporary
32 restricted license for at least sixty days after the
33 effective date of the revocation.

34 d. A person whose license or privileges have been
35 revoked under subsection 1, paragraph "b", for one
36 year shall not be eligible for any temporary
37 restricted license for one year after the effective
38 date of the revocation, and the person shall be
39 ordered to install an ignition interlock device of a
40 type approved by the commissioner of public safety on
41 all vehicles owned or operated by the defendant if the
42 defendant seeks a temporary restricted license at the
43 end of the minimum period of ineligibility. A
44 temporary restricted license shall not be granted by
45 the department until the defendant installs the
46 ignition interlock device."

47 5. By renumbering, redesignating, and correcting
48 internal references as necessary.

By BAUDLER of Adair
HORBACH of Tama

Fiscal Note

HF 65 – OWI .08 (LSB 1428 HV)

Analyst: Mary Beth Mellick (Phone: (515) 281-8223) (marybeth.mellick@legis.state.ia.us)

Fiscal Note Version – New

Description

House File 65 changes the limit for blood-alcohol concentration while driving a motor vehicle from .10 percent to .08 percent. Under the Bill, a person who drives with a .08 blood-alcohol concentration or higher would violate Section 321J.2, Code of Iowa, the operating while intoxicated (OWI) statute.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
 2. Prisoner length of stay, revocation rates, and other corrections' practices and policies will not change over the projection period.
 3. There is a six-month lag time from the effective date (July 1, 2003) of the proposed legislation to the date of first entry of affected offenders into the correctional system.
 4. Based on a four-state analysis by the National Highway Traffic Safety Administration (NHTSA), in the years following the lowering of the per se blood-alcohol content from .10 percent to .08 percent, there was a 4.0 percent increase in OWI arrests and convictions. Costs associated with more arrests cannot be determined, but are not expected to be significant.
 5. The National Highway Traffic Safety Administration's four-year analysis showed there was a 7.0 percent reduction in convictions for Vehicular Homicide and Serious Injury OWIs.
 6. Under the Transportation Equity Act of the 21st Century (TEA-21), states that adopt a .08 blood-alcohol content per se law as the legal standard for drunk driving offense are eligible to receive incentive funds. The Transportation Act of the 21st Century (TEA-21) provides a total of \$500 million over a six-year period, beginning in FFY 1998, to qualifying states. Iowa has not yet qualified.
 7. Administrative license revocations appeals will increase, however, the increase is not expected to be significant for the Department of Transportation (DOT) or the Department of Inspections and Appeals (DIA).
 8. There will be a 4.0 percent increase in OWI-related license revocations, and therefore a 4.0 percent increase in civil penalty fees. (The DOT collects civil penalty fees for each revoked driver's license, upon reinstating the license.)
 9. Average jail terms are based on the average jail term imposed for OWI violations.
 10. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Conviction and penalty information is based on FY 2002 data. Prison admission data from the Adult Corrections Information System was also used.
 11. The median cost per case for indigent defense for an OWI First is \$500, an OWI Second is \$1,000, an OWI Third is \$1,000, a Serious Injury OWI is \$1,000, and a Vehicular Homicide OWI is \$3,500. Approximately 50 percent of all OWI First offense convictions
-

- are indigent, while 100 percent of OWI Second and Third offense convictions are indigent.
12. The marginal cost per day for state prisons is \$12 per offender. The average length of stay for new admissions for an OWI Third conviction is 5 months, a Vehicular Homicide conviction is 111 months, and a Serious Injury OWI conviction is 23 months. The average length of stay for re-admissions for an OWI Third conviction is 10 months, a Vehicular Homicide conviction is 16 months, and a Serious Injury OWI conviction is 10 months.
 13. The marginal cost per day for probation or parole is \$1.82 per offender. The average length of stay for an OWI First is 14 months, an OWI Second is 19 months, and an OWI Third is 13 months. OWI Third offenders have served time in prison, jail, and residential facilities.
 14. Most OWI First offenders are "banked"; i.e., they are not actively supervised. The Department of Corrections' standard for supervising banked cases is one agent to 750 offenders. The average annual cost of a Parole/Probation Officer II is \$52,000 (salary and benefits).
 15. The marginal cost per day for Community-Based Corrections (CBC) OWI treatment facilities is \$23 per offender, with an average length of stay of four to six months. A portion of this cost is offset by offender fees.
 16. There are 1,404 CBC facility beds statewide. Of these, approximately 236 beds are dedicated to the OWI residential treatment program. On January 23, 2003, there were 238 OWI offenders in the facility-based OWI treatment program, 55 offenders were waiting to enter the facilities. These offenders may be under CBC supervision, or waiting in prison or jail. The facility-based OWI treatment program is operating at full capacity under current law.
 17. Operating While Intoxicated (OWI) Second and OWI Third offenders will be required to attend substance abuse treatment, either at their own expense or through Iowa's substance abuse managed care system. The average cost per client for substance abuse treatment is \$1,200.
 18. The average cost for a jury for 1.5 days for an OWI Second, an OWI Third, a Serious Injury OWI, and a Vehicular Homicide OWI is \$390.
 19. The average cost for an OWI First trial ranges from \$58 to \$61 without a jury.
 20. The average cost for an OWI Second trial ranges from \$58 to \$61 without a jury, and \$448 to \$451 with a jury.
 21. The average cost for an OWI Third trial, Serious Injury OWI trial, and Vehicular Homicide trial is approximately \$160 without a jury, and \$550 with a jury.
 22. Average length of stay in county jail for an OWI First is seven days.
 23. Average length of stay in county jail for an OWI Second is 16 days.
 24. Average length of stay in county jail for an OWI Third is 55 days.
 25. The marginal cost per day for county jails is \$15 to \$25.
 26. There will be 267 additional admissions for OWI First convictions, 86 additional admissions for OWI Second convictions, and 21 additional admissions for OWI Third convictions. This amounts to the following additional days served:
 - 1,869 additional jail days for OWI First.
 - 1,376 additional jail days for OWI Second.
 - 1,155 additional jail days for OWI Third.

CORRECTIONAL IMPACT

During FY 2004, HF 65 will result in an additional 193 OWI First convictions (serious misdemeanor), 54 OWI Second convictions (aggravated misdemeanor), and 20 OWI Third

convictions (Class D felony). During FY 2005 (annualized impact), there will be an additional 386 OWI First convictions, 107 OWI Second convictions, and 40 OWI Third convictions. Also during FY 2004 and FY 2005, there will be one less Vehicular Homicide OWI conviction (Class B) each year and one less Serious Injury OWI conviction (Class D) each year.

During FY 2004, there will be an additional 265 people convicted under the proposed legislation. These 265 convicted offenders will be sentenced as follows: 5 to prison, 18 to CBC facilities, 125 to probation, and 187 to jail. Certain offenders will receive a split sentence, such as jail and probation.

During FY 2005 (annualized impact), there will be an additional 531 people convicted under the proposed legislation. These 531 convicted offenders will be sentenced as follows: 12 to prison, 43 to CBC facilities, 290 to probation, and 374 to jail. Certain offenders will receive a split sentence, such as jail and probation.

Admissions to the State prison system will increase by 5 during FY 2004, by 12 during FY 2005, and by 13 in FY 2008. The prison population will increase by four during FY 2004, by five during FY 2005, and by two in FY 2008.

Admissions to CBC residential treatment facilities will increase by 18 during FY 2004, and 43 new admissions each year thereafter. This will increase the number of offenders on waiting lists, which will increase the need for additional OWI treatment beds. The increase in admissions to CBC facilities will increase the number of OWI Third offenders being revoked to prison for failing the treatment program. It is estimated that four of these offenders will be revoked in FY 2005. Of these, two will be held in jail pending the revocation hearing. Admissions to street supervision will increase by 125 during FY 2004, and 290 each year thereafter.

The number of new admissions to OWI residential treatment facilities in FY 2005 (43) may result in the CBC system shifting beds from the Work Release or Residential Programs to the OWI treatment program. If such a change occurs, the prison population may increase, as there will be fewer CBC beds available.

Admissions to county jails will increase by 187 during FY 2004, by 374 during FY 2005, and by 380 in FY 2008.

FISCAL IMPACT

The estimated net fiscal impact of HF 65 to the State General Fund is an increase in expenditures of \$257,000 during FY 2004, and an increase in expenditures of \$523,000 during FY 2005. The estimated net fiscal impact of HF 65 to local governments is an increase in expenditures of between \$64,000 and \$108,000 in FY 2004 and each year thereafter. A breakdown of expenditures and revenues follows.

State Government Impact

Expenditures

The estimated increase in expenditures for FY 2004 is \$371,000 and \$796,000 in FY 2005. A detailed breakdown of expenditures is as follows:

	<u>FY 2004</u>	<u>FY 2005</u>
Dept. of Corrections - Prisons	\$ 9,000	\$ 22,000
CBC (treatment)	62,000	148,000
County confinement	Minimal	Minimal
Probation and parole	61,000	147,000
Courts	32,000	64,000
Indigent defense	118,000	239,000
Substance abuse treatment	89,000	176,000
DPS - Iowa State Patrol	Minimal	Minimal
Total	<u>\$ 371,000</u>	<u>\$ 796,000</u>

Additional FTEs will be needed for probation and parole statewide: 1.16 FTE positions in FY 2004 and 2.8 FTE positions in FY 2005. The First, Third, Fifth, and Sixth CBC District Departments will experience the most increase in demand for additional staff.

Revenues

Total revenues for mandatory criminal and civil fines and surcharge fees are estimated to increase \$114,000 to the General Fund and \$35,000 to the Victim Compensation Fund in FY 2004; and \$273,000 to the General Fund and \$72,000 to the Victim Compensation Fund in FY 2005. A detailed breakdown of revenues follows:

	<u>FY 2004</u>	<u>FY 2005</u>
State General Fund	\$ 114,000	\$ 273,000
Victim Compensation Fund	35,000	72,000

Local Government Impact

Expenditures

Local governments will experience increased costs for operating jails under HF 65. Total increased statewide costs for local jails are estimated to be \$66,000 to \$110,000 more annually than current law.

The increase in the number of arrests is not anticipated to have significant fiscal impact on local law enforcement. Resources for enforcement may be diverted from other duties.

Revenues

Total revenues to the counties' General Fund are estimated to increase \$1,000 during FY 2004 and \$3,000 in FY 2005 and each year thereafter. Revenues include criminal surcharge fees.

Federal Funds Impact

The estimated fiscal impact of enacting HF 65 during the 2003 Legislative Session is expected to result in increased revenue from federal incentive funds. The incentive funds can be used for any projects eligible for assistance under 23 U.S.C., which include highway construction and traffic safety projects. Of the incentive funds received by the State, and of the amount to be obligated by the DPS, at least 40.0 percent must benefit local programs.

If Iowa enacts HF 65 by July 15, 2003, and begins enforcement by September 30, 2003, the State will receive between an estimated \$1.4 and \$2.1 million in one-time incentive funds. No state matching funds are required for the incentive grant.

As additional states adopt the .08 standard, Iowa's share of the incentive funds decrease. As of January 2003, 34 states have adopted .08 per se laws and are in compliance with Section 163. Sixteen states, including Iowa, are not in compliance.

The following table illustrates estimated incentive funding amounts Iowa could receive in FFY 2003, depending on the number of states with a .08 per se law at the time Iowa's law is enacted.

Number of States Enacting .08 FFY 2003	Iowa Incentive Funds FFY 2003
Iowa only	\$2.1 million
Iowa and two other states	\$2.0 million
Iowa and four other states	\$1.9 million
Iowa and eight other states	\$1.7 million
Iowa and 12 other states	\$1.5 million
All remaining 16 states	\$1.4 million

Note: Estimates will vary depending on the number and size of states that enact .08.

Sources

Department of
(CJJP)
Department of Transportation
Department of Corrections
Department of Public Safety
Department of Inspections and Appeals
State Public Defender's Office
Supreme Court
National Conference of State Legislatures
National Highway Traffic Safety Administration

Human Rights

February 6, 2003

HOUSE FILE 65
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 5)
(COMPANION TO SF 37 BY
COMMITTEE ON JUDICIARY)

(As Amended and Passed by the House February 6, 2003)

Passed House, Date Passed 2/6/03 Passed Senate, Date Passed 4/15/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved 4/24/03

A BILL FOR

1 An Act relating to motor vehicle operating while intoxicated
2 offenses.

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

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House Amendments _____

HF 65

1 Section 1. Section 321J.2, subsection 1, paragraph b, Code
2 2003, is amended to read as follows:

3 b. While having an alcohol concentration of ~~±~~ .08 or
4 more.

5 Sec. 2. Section 321J.2, subsection 2, paragraph a,
6 subparagraph (3), Code 2003, is amended to read as follows:

7 (3) Revocation of the person's driver's license pursuant
8 to section 321J.4, subsection 1, section 321J.9, or section
9 321J.12, subsection 2, which includes a minimum revocation
10 period of one hundred eighty days, ~~including a minimum period~~
11 ~~of ineligibility for a temporary restricted license of thirty~~
12 ~~days,~~ and may involve a revocation period of one year. A
13 revocation under section 321J.9 includes a minimum period of
14 ineligibility for a temporary restricted license of ninety
15 days.

16 (a) A defendant whose alcohol concentration is .08 or more
17 but not more than .10 shall not be eligible for any temporary
18 restricted license for at least thirty days if a test was
19 obtained and an accident resulting in personal injury or
20 property damage occurred. The defendant shall be ordered to
21 install an ignition interlock device of a type approved by the
22 commissioner of public safety on all vehicles owned by the
23 defendant if the defendant seeks a temporary restricted
24 license. There shall be no such period of ineligibility if no
25 such accident occurred, and the defendant shall not be ordered
26 to install an ignition interlock device.

27 (b) A defendant whose alcohol concentration is more than
28 .10 shall not be eligible for any temporary restricted license
29 for at least thirty days if a test was obtained, and an
30 accident resulting in personal injury or property damage
31 occurred or the defendant's alcohol concentration exceeded
32 .15. There shall be no such period of ineligibility if no
33 such accident occurred and the defendant's alcohol
34 concentration did not exceed .15. In either case, where a
35 defendant's alcohol concentration is more than .10, the

1 defendant shall be ordered to install an ignition interlock
2 device of a type approved by the commissioner of public safety
3 on all vehicles owned by the defendant if the defendant seeks
4 a temporary restricted license.

5 Sec. 3. Section 321J.4, subsections 1 and 3, Code 2003,
6 are amended to read as follows:

7 1. If a defendant is convicted of a violation of section
8 321J.2 and the defendant's driver's license or nonresident
9 operating privilege has not been revoked under section 321J.9
10 or 321J.12 for the occurrence from which the arrest arose, the
11 department shall revoke the defendant's driver's license or
12 nonresident operating privilege for one hundred eighty days if
13 the defendant has had no previous conviction or revocation
14 under this chapter. The defendant shall not be eligible for
15 any temporary restricted license for-at-least-thirty-days
16 after-the-effective-date-of-the-revocation-if-a-test-was
17 obtained-and for at least ninety days if a test was refused
18 under section 321J.9.

19 a. A defendant whose alcohol concentration is .08 or more
20 but not more than .10 shall not be eligible for any temporary
21 restricted license for at least thirty days if a test was
22 obtained and an accident resulting in personal injury or
23 property damage occurred. The defendant shall be ordered to
24 install an ignition interlock device of a type approved by the
25 commissioner of public safety on all vehicles owned by the
26 defendant if the defendant seeks a temporary restricted
27 license. There shall be no such period of ineligibility if no
28 such accident occurred, and the defendant shall not be ordered
29 to install an ignition interlock device.

30 b. A defendant whose alcohol concentration is more than
31 .10 shall not be eligible for any temporary restricted license
32 for at least thirty days if a test was obtained, and an
33 accident resulting in personal injury or property damage
34 occurred or the defendant's alcohol concentration exceeded
35 .15. There shall be no such period of ineligibility if no

1 such accident occurred and the defendant's alcohol
2 concentration did not exceed .15. In either case, where a
3 defendant's alcohol concentration is more than .10, the
4 defendant shall be ordered to install an ignition interlock
5 device of a type approved by the commissioner of public safety
6 on all vehicles owned by the defendant if the defendant seeks
7 a temporary restricted license.

8 c. If the defendant is under the age of twenty-one, the
9 defendant shall not be eligible for a temporary restricted
10 license for at least sixty days after the effective date of
11 revocation.

12 3. If the court defers judgment pursuant to section 907.3
13 for a violation of section 321J.2, and if the defendant's
14 driver's license or nonresident operating privilege has not
15 been revoked under section 321J.9 or 321J.12, or has not
16 otherwise been revoked for the occurrence from which the
17 arrest arose, the department shall revoke the defendant's
18 driver's license or nonresident operating privilege for a
19 period of not less than thirty days nor more than ninety days.
20 The defendant shall not be eligible for any temporary
21 restricted license for at least ~~thirty days after the~~
22 ~~effective date of the revocation if a test was obtained and~~
23 ~~for at least~~ ninety days if a test was refused.

24 a. A defendant whose alcohol concentration is .08 or more
25 but not more than .10 shall not be eligible for any temporary
26 restricted license for at least thirty days if a test was
27 obtained and an accident resulting in personal injury or
28 property damage occurred. The defendant shall be ordered to
29 install an ignition interlock device of a type approved by the
30 commissioner of public safety on all vehicles owned by the
31 defendant if the defendant seeks a temporary restricted
32 license. There shall be no such period of ineligibility if no
33 such accident occurred, and the defendant shall not be ordered
34 to install an ignition interlock device.

35 b. A defendant whose alcohol concentration is more than

1 .10 shall not be eligible for any temporary restricted license
2 for at least thirty days if a test was obtained, and an
3 accident resulting in personal injury or property damage
4 occurred or the defendant's alcohol concentration exceeded
5 .15. There shall be no such period of ineligibility if no
6 such accident occurred and the defendant's alcohol
7 concentration did not exceed .15. In either case, where a
8 defendant's alcohol concentration is more than .10, the
9 defendant shall be ordered to install an ignition interlock
10 device of a type approved by the commissioner of public safety
11 on all vehicles owned by the defendant if the defendant seeks
12 a temporary restricted license.

13 c. If the defendant is under the age of twenty-one, the
14 defendant shall not be eligible for a temporary restricted
15 license for at least sixty days after the effective date of
16 the revocation.

17 Sec. 4. Section 321J.6, subsection 1, paragraph g, Code
18 2003, is amended to read as follows:

19 g. The preliminary breath screening test was administered
20 and it indicated an alcohol concentration of .02 or more but
21 less than ~~+.10~~ .08 and the person is under the age of twenty-
22 one.

23 Sec. 5. Section 321J.12, subsection 2, Code 2003, is
24 amended to read as follows:

25 2. a. A person whose driver's license or nonresident
26 operating privileges have been revoked under subsection 1,
27 paragraph "a", whose alcohol concentration is .08 or more but
28 not more than .10 shall not be eligible for any temporary
29 restricted license for at least thirty days after the
30 effective date of the revocation if a test was obtained and an
31 accident resulting in personal injury or property damage
32 occurred. The defendant shall be ordered to install an
33 ignition interlock device of a type approved by the
34 commissioner of public safety on all vehicles owned by the
35 defendant if the defendant seeks a temporary license. There

1 shall be no such period of ineligibility if no such accident
2 occurred, and the defendant shall not be ordered to install an
3 ignition interlock device.

4 b. A defendant whose alcohol concentration is more than
5 .10 shall not be eligible for any temporary restricted license
6 for at least thirty days if a test was obtained, and an
7 accident resulting in personal injury or property damage
8 occurred or the defendant's alcohol concentration exceeded
9 .15. There shall be no such period of ineligibility if no
10 such accident occurred and the defendant's alcohol
11 concentration did not exceed .15. In either case, where a
12 defendant's alcohol concentration is more than .10, the
13 defendant shall be ordered to install an ignition interlock
14 device of a type approved by the commissioner of public safety
15 on all vehicles owned by the defendant if the defendant seeks
16 a temporary restricted license.

17 c. If the person is under the age of twenty-one, the
18 person shall not be eligible for a temporary restricted
19 license for at least sixty days after the effective date of
20 the revocation.

21 d. A person whose license or privileges have been revoked
22 under subsection 1, paragraph "b", for one year shall not be
23 eligible for any temporary restricted license for one year
24 after the effective date of the revocation, and the person
25 shall be ordered to install an ignition interlock device of a
26 type approved by the commissioner of public safety on all
27 vehicles owned or operated by the defendant if the defendant
28 seeks a temporary restricted license at the end of the minimum
29 period of ineligibility. A temporary restricted license shall
30 not be granted by the department until the defendant installs
31 the ignition interlock device.

32 Sec. 6. Section 321J.12, subsection 5, Code 2003, is
33 amended to read as follows:

34 5. Upon certification, subject to penalty of perjury, by
35 the peace officer that there existed reasonable grounds to

1 believe that the person had been operating a motor vehicle in
2 violation of section 321J.2A, that there existed one or more
3 of the necessary conditions for chemical testing described in
4 section 321J.6, subsection 1, and that the person submitted to
5 chemical testing and the test results indicated an alcohol
6 concentration ~~as defined in section 321J.1~~ of .02 or more but
7 less than ~~±0~~ .08, the department shall revoke the person's
8 driver's license or operating privilege for a period of sixty
9 days if the person has had no previous revocation under this
10 chapter, and for a period of ninety days if the person has had
11 a previous revocation under this chapter.

12 Sec. 7. Section 321J.20, subsection 6, Code 2003, is
13 amended to read as follows:

14 6. Following certain minimum periods of ineligibility, a
15 temporary restricted license under this section shall not be
16 issued until such time as the applicant installs an ignition
17 interlock device of a type approved by the commissioner of
18 public safety on all motor vehicles owned or operated by the
19 applicant, in accordance with section 321J.2, 321J.4, 321J.9,
20 or 321J.12. Installation of an ignition interlock device
21 under this section shall be required for the period of time
22 for which the temporary restricted license is issued.

23 Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection
24 3, shall not apply to this Act.

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S-3028

1 Amend House File 65, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, by inserting after line 4 the
4 following:

5 "Sec. _____. Section 321J.2, subsection 3, paragraph
6 a, subparagraph (1), Code 2003, is amended to read as
7 follows:

8 (1) If the defendant's alcohol concentration
9 established by the results of an analysis of a
10 specimen of the defendant's blood, breath, or urine
11 withdrawn in accordance with this chapter exceeds .15,
12 regardless of whether or not the alcohol concentration
13 indicated by the chemical test minus the established
14 margin of error inherent in the device or method used
15 to conduct the test equals an alcohol concentration of
16 .15 or more. This subparagraph shall not prohibit the
17 court from deferring judgment for a defendant
18 convicted of a first offense under subsection 2,
19 paragraph "a"."

20 2. Page 6, by inserting after line 22 the
21 following:

22 "Sec. _____. Section 907.3, subsection 1, paragraph
23 g, subparagraph (1), Code 2003, is amended to read as
24 follows:

25 (1) If the defendant's alcohol concentration
26 established by the results of an analysis of a
27 specimen of the defendant's blood, breath, or urine
28 withdrawn in accordance with chapter 321J exceeds .15,
29 regardless of whether or not the alcohol concentration
30 indicated by the chemical test minus the established
31 margin of error inherent in the device or method used
32 to conduct the test equals an alcohol concentration of
33 .15 or more. This subparagraph shall not prohibit the
34 court from deferring judgment for a defendant
35 convicted of a first offense under subsection 2,
36 paragraph "a"."

37 3. By renumbering as necessary.

By MATT McCOY

S-3028 FILED MARCH 5, 2003

Lost 4/15/03

HOUSE FILE 65

S-3036

1 Amend House File 65, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Section 1. NEW SECTION. 123.49A BREATHALYZER
6 TESTS.

7 An establishment that holds a class "A", class "B",
8 or class "C" liquor control license shall provide a
9 breathalyzer test for public use at a charge not to
10 exceed five dollars per test. A licensee shall be
11 immune from liability in any civil or criminal action
12 arising out of the results of a test provided pursuant
13 to this section and such results shall not be
14 admissible in a court of law."

15 2. Title page, line 2, by inserting after the
16 word "offenses" the following: "and providing for
17 breathalyzer tests in certain drinking
18 establishments".

19 3. By renumbering as necessary.

By DAVID MILLER

S-3036 FILED MARCH 17, 2003

Withdrawn 4/15/03

S-3037

1 Amend House File 65, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Sec. __. Section 321J.2, subsection 2, paragraph
6 a, subparagraph (1), Code 2003, is amended to read as
7 follows:

8 (1) Imprisonment in the county jail ~~for not less~~
9 ~~than forty-eight hours up to one year~~, to be served as
10 ordered by the court, less credit for any time the
11 person was confined in a jail or detention facility
12 following arrest. However, the court, in ordering
13 service of the sentence and in its discretion, may
14 accommodate the defendant's work schedule."

15 2. Page 2, by inserting after line 4 the
16 following:

17 "Sec. __. Section 321J.2, subsection 2, paragraphs
18 b and c, Code 2003, are amended to read as follows:

19 b. An aggravated misdemeanor for a second offense,
20 and ~~shall~~ may be imprisoned in the county jail or
21 community-based correctional facility ~~not less than~~
22 ~~seven days up to two years~~, and ~~shall be~~ assessed a
23 fine of not less than one thousand five hundred
24 dollars nor more than five thousand dollars.

25 c. A class "D" felony for a third offense and each
26 subsequent offense, and ~~shall~~ may be committed to the
27 custody of the director of the department of
28 corrections for an indeterminate term not to exceed
29 five years, ~~shall be confined for a mandatory minimum~~
30 ~~term of thirty days~~, and shall be assessed a fine of
31 not less than two thousand five hundred dollars nor
32 more than seven thousand five hundred dollars.

33 (1) If the court does not suspend a person's
34 sentence of commitment to the custody of the director
35 of the department of corrections under this paragraph
36 "c", the person shall be assigned to a facility
37 pursuant to section 904.513.

38 (2) If the court suspends a person's sentence of
39 commitment to the custody of the director of the
40 department of corrections under this paragraph "c",
41 ~~the court shall order the person to serve not less~~
42 ~~than thirty days nor more than one year in the county~~
43 ~~jail~~, and the person may be committed to treatment in
44 the community under section 907.6.

45 Sec. __. Section 321J.2, Code 2003, is amended by
46 adding the following new subsection:

47 NEW SUBSECTION. 2A. In ordering service of the
48 defendant's sentence under subsection 2, paragraph
49 "a", "b", or "c", the court may order the defendant to
50 perform a specified amount of unpaid community

S-3037

1 service, assign the defendant to a substance abuse
2 treatment facility, or order the defendant to attend
3 and participate in a reality education substance abuse
4 prevention program or drinking drivers course, or any
5 combination of the foregoing, in lieu of the sentence
6 of confinement.

7 Sec. __. Section 321J.2, subsection 3, paragraph
8 a, unnumbered paragraph 1, Code 2003, is amended to
9 read as follows:

10 Notwithstanding the provisions of sections 901.5
11 and 907.3, the court shall not ~~defer judgment or~~
12 ~~sentencing, or suspend execution of any mandatory~~
13 ~~minimum sentence of incarceration applicable to the~~
14 ~~defendant under subsection 2, and shall not suspend~~
15 execution of any other part of a sentence not
16 involving incarceration imposed pursuant to subsection
17 2, if any of the following apply:

18 Sec. __. Section 321J.2, subsection 3, paragraph
19 d, Code 2003, is amended to read as follows:

20 d. A ~~minimum~~ term of imprisonment in a county jail
21 or community-based correctional facility imposed on a
22 person convicted of a second or subsequent offense
23 under subsection 2, shall be served on consecutive
24 days. However, if the sentencing court finds that
25 service of the full ~~minimum~~ term on consecutive days
26 would work an undue hardship on the person, or finds
27 that sufficient jail space is not available and is not
28 reasonably expected to become available within four
29 months after sentencing to incarcerate the person
30 serving the ~~minimum~~ sentence on consecutive days, the
31 court may order the person to serve the ~~minimum~~ term
32 in segments of at least forty-eight hours and to
33 perform a specified number of hours of unpaid
34 community service as deemed appropriate by the
35 sentencing court."

36 3. Page 6, by inserting after line 22, the
37 following:

38 "Sec. __. Section 907.3, subsection 3, paragraph
39 c, Code 2003, is amended to read as follows:

40 c. ~~A mandatory minimum sentence of incarceration~~
41 ~~imposed pursuant to a violation of section 321J.2,~~
42 ~~subsection 1; furthermore, the court shall not suspend~~
43 ~~any~~ Any part of a sentence not involving incarceration
44 imposed pursuant to section 321J.2, subsection 2,
45 beyond the mandatory minimum if any of the following
46 apply:"

47 4. By renumbering as necessary.

By DAVID MILLER
BOB BRUNKHORST

S-3074

1 Amend House File 65, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Sec. __. Section 321J.2, subsection 2, paragraph
6 a, subparagraph (1), Code 2003, is amended to read as
7 follows:

8 (1) Imprisonment in the county jail for ~~not less~~
9 ~~than forty-eight hours~~ up to one year, to be served as
10 ordered by the court, less credit for any time the
11 person was confined in a jail or detention facility
12 following arrest. However, the court, in ordering
13 service of the sentence and in its discretion, may
14 accommodate the defendant's work schedule. In lieu of
15 a sentence of imprisonment, the court may order the
16 defendant to perform unpaid community service."

17 2. Page 2, by inserting after line 4 the
18 following:

19 "Sec. __. Section 321J.2, subsection 2, paragraphs
20 b and c, Code 2003, are amended to read as follows:

21 b. An aggravated misdemeanor for a second offense,
22 and shall be imprisoned in the county jail or
23 community-based correctional facility not less than
24 seven five days or shall be sentenced to perform
25 unpaid community service for not less than thirty
26 days, and shall be assessed a fine of not less than
27 one thousand five hundred dollars nor more than five
28 thousand dollars.

29 c. A class "D" felony for a third offense and ~~each~~
30 subsequent offense, and shall be committed to the
31 custody of the director of the department of
32 corrections for an indeterminate term not to ~~exceed~~
33 five years, shall be confined for a mandatory ~~minimum~~
34 term of thirty ten days or shall be sentenced to
35 perform unpaid community service for not less than
36 sixty days, and shall be assessed a fine of not ~~less~~
37 than two thousand five hundred dollars nor more ~~than~~
38 seven thousand five hundred dollars.

39 (1) If the court does not suspend a person's
40 sentence of commitment to the custody of the director
41 of the department of corrections under this paragraph
42 "c", the person shall be assigned to a facility
43 pursuant to section 904.513.

44 (2) If the court suspends a person's sentence of
45 commitment to the custody of the director of the
46 department of corrections under this paragraph "c",
47 the court shall order the person to serve not less
48 than thirty ten days nor more than one year in the
49 county jail, and the person may be committed to
50 treatment in the community under section 907.6."

S-3074

S-3074

Page 2

1 3. By renumbering as necessary.

By DAVID MILLER
BOB BRUNKHORST

S-3074 FILED MARCH 20, 2003

Lost 4/15/03

HOUSE FILE 65

S-3177

1 Amend House File 65, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Section 1. NEW SECTION. 123.49A BREATHALYZER
6 TESTS.

7 An establishment that holds a class "A", class "B",
8 or class "C" liquor control license shall provide a
9 preliminary breath screening test for public use at a
10 charge not to exceed five dollars per test. A
11 licensee shall be immune from liability in any civil
12 or criminal action arising out of the results of a
13 test provided pursuant to this section and such
14 results shall not be admissible in a court of law."

15 2. Title page, line 2, by inserting after the
16 word "offenses" the following: "and providing for
17 preliminary breath screening tests in certain drinking
18 establishments".

19 3. By renumbering as necessary.

By DAVID MILLER

S-3177 FILED APRIL 8, 2003

Ruled out of order 4/15/03

S-3204

1 Amend House File 65, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, by inserting after line 4 the
4 following:

5 "Sec. ____ . NEW SECTION. 321J.2C PERSONS FOUND
6 NOT GUILTY.

7 1. Notwithstanding any other provision of this
8 chapter to the contrary, if any prosecution for a
9 violation of section 321J.2 or 321J.2A does not result
10 in a conviction, and the defendant's driver's license
11 or nonresident operating privilege has been revoked
12 under section 321J.12 for the occurrence from which
13 the arrest arose, the department shall, upon receipt
14 of the court order finding the defendant not guilty,
15 immediately rescind the revocation order and reinstate
16 the defendant's license.

17 2. Notwithstanding section 321.12 or any other
18 provision of chapter 321 or 321J to the contrary, the
19 director shall immediately destroy any operating
20 records pertaining to a revocation under section
21 321J.12 for the occurrence from which an arrest arose
22 when the defendant was subsequently prosecuted and
23 found not guilty upon receipt of the court order
24 finding the defendant not guilty."

25 2. By renumbering as necessary.

By BOB BRUNKHORST

WILLIAM A. DOTZLER

JEFF LAMBERTI

BRYAN J. SIEVERS

RON WIECK

WALLY E. HORN

THOMAS G. COURTNEY

HERMAN C. QUIRMBACH

MARK ZIEMAN

S-3204 FILED APRIL 14, 2003

Ruled out of order 4/15/03

S-3215

1 Amend House File 65, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, line 22, by inserting after the word
4 "owned" the following: "or operated".

5 2. Page 2, line 3, by inserting after the word
6 "owned" the following: "or operated".

7 3. Page 2, line 25, by inserting after the word
8 "owned" the following: "or operated".

9 4. Page 3, line 6, by inserting after the word
10 "owned" the following: "or operated".

11 5. Page 3, line 30, by inserting after the word
12 "owned" the following: "or operated".

13 6. Page 4, line 11, by inserting after the word
14 "owned" the following: "or operated".

15 7. Page 4, line 34, by inserting after the word
16 "owned" the following: "or operated".

17 8. Page 5, line 15, by inserting after the word
18 "owned" the following: "or operated".

By DONALD B. REDFERN

S-3215 FILED APRIL 15, 2003

WITHDRAWN

HOUSE FILE 65

S-3216

1 Amend House File 65, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 1, line 29 through page 2,
4 line 1, and inserting the following: "for at least
5 thirty days if a test was obtained. A defendant whose
6 alcohol concentration is more than .10 shall be
7 ordered to install an ignition interlock".

8 2. By striking page 2, line 32 through page 3,
9 line 4, and inserting the following: "for at least
10 thirty days if a test was obtained. A defendant whose
11 alcohol concentration is more than .10 shall be
12 ordered to install an ignition interlock".

13 3. Page 4, by striking lines 2 through 9, and
14 inserting the following: "for at least thirty days if
15 a test was obtained. A defendant whose alcohol
16 concentration is more than .10 shall be ordered to
17 install an ignition interlock".

18 4. Page 5, by striking lines 6 through 13, and
19 inserting the following: "for at least thirty days if
20 a test was obtained. A defendant whose alcohol
21 concentration is more than .10 shall be ordered to
22 install an ignition interlock".

23 5. By renumbering as necessary.

By DONALD B. REDFERN

S-3216 FILED APRIL 15, 2003

WITHDRAWN

HOUSE FILE 65

S-3218

1 Amend House File 65, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 1, line 5, through page 2,
4 line 4.

5 2. By striking page 2, line 5, through page 4,
6 line 16.

7 3. By striking page 4, line 23, through page 5,
8 line 31.

9 4. Page 6, by striking lines 12 through 22.

10 5. By renumbering as necessary.

By DONALD B. REDFERN

S-3218 FILED APRIL 15, 2003

WITHDRAWN

HOUSE FILE 65

AN ACT

RELATING TO MOTOR VEHICLE OPERATING WHILE INTOXICATED OFFENSES.

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

Section 1. Section 321J.2, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. While having an alcohol concentration of ~~not~~ .08 or more.

Sec. 2. Section 321J.2, subsection 2, paragraph a, subparagraph (3), Code 2003, is amended to read as follows:

(3) Revocation of the person's driver's license pursuant to section 321J.4, subsection 1, section 321J.9, or section 321J.12, subsection 2, which includes a minimum revocation period of one hundred eighty days, ~~including a minimum period of ineligibility for a temporary restricted license of thirty days~~, and may involve a revocation period of one year. A revocation under section 321J.9 includes a minimum period of ineligibility for a temporary restricted license of ninety days.

(a) A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

(b) A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.

Sec. 3. Section 321J.4, subsections 1 and 3, Code 2003, are amended to read as follows:

1. If a defendant is convicted of a violation of section 321J.2 and the defendant's driver's license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 for the occurrence from which the arrest arose, the department shall revoke the defendant's driver's license or nonresident operating privilege for one hundred eighty days if the defendant has had no previous conviction or revocation under this chapter. The defendant shall not be eligible for any temporary restricted license ~~for-at-least-thirty-days after-the-effective-date-of-the-revocation-if-a-test-was obtained-and~~ for at least ninety days if a test was refused under section 321J.9.

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the

defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.

c. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of revocation.

3. If the court defers judgment pursuant to section 907.3 for a violation of section 321J.2, and if the defendant's driver's license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12, or has not otherwise been revoked for the occurrence from which the arrest arose, the department shall revoke the defendant's driver's license or nonresident operating privilege for a period of not less than thirty days nor more than ninety days. The defendant shall not be eligible for any temporary restricted license for at least ~~thirty-days-after-the effective-date-of-the-revocation-if-a-test-was-obtained-and~~ for-at-least ninety days if a test was refused.

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.

c. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

Sec. 4. Section 321J.6, subsection 1, paragraph g, Code 2003, is amended to read as follows:

g. The preliminary breath screening test was administered and it indicated an alcohol concentration of .02 or more but less than ~~+.10~~ .08 and the person is under the age of twenty-one.

Sec. 5. Section 321J.12, subsection 2, Code 2003, is amended to read as follows:

2. a. A person whose driver's license or nonresident operating privileges have been revoked under subsection 1, paragraph "a", whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.

c. If the person is under the age of twenty-one, the person shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

d. A person whose license or privileges have been revoked under subsection 1, paragraph "b", for one year shall not be eligible for any temporary restricted license for one year after the effective date of the revocation, and the person shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

Sec. 6. Section 321J.12, subsection 5, Code 2003, is amended to read as follows:

5. Upon certification, subject to penalty of perjury, by the peace officer that there existed reasonable grounds to believe that the person had been operating a motor vehicle in violation of section 321J.2A, that there existed one or more of the necessary conditions for chemical testing described in section 321J.6, subsection 1, and that the person submitted to chemical testing and the test results indicated an alcohol concentration ~~as defined in section 321J.1~~ of .02 or more but less than ~~±0~~ .08, the department shall revoke the person's driver's license or operating privilege for a period of sixty days if the person has had no previous revocation under this chapter, and for a period of ninety days if the person has had a previous revocation under this chapter.

Sec. 7. Section 321J.20, subsection 6, Code 2003, is amended to read as follows:

6. Following certain minimum periods of ineligibility, a temporary restricted license under this section shall not be issued until such time as the applicant installs an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the applicant, in accordance with section 321J.2, 321J.4, 321J.9,

or 321J.12. Installation of an ignition interlock device under this section shall be required for the period of time for which the temporary restricted license is issued.

Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

CHRISTOPHER C. RANTS
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 65, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor