SENATE/HOUSE FILE

BY (PROPOSED GOVERNOR'S OFFICE OF DRUG CONTROL POLICY BILL)

A BILL FOR

- 1 An Act relating to the wearing of an alcohol monitoring
- 2 device as a condition of probation for certain
- 3 operating-while-intoxicated and related offenses.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.1, Code 2009, is amended by adding 2 the following new subsection:

3 <u>NEW SUBSECTION</u>. 3A. *"Continuous alcohol monitoring device"* 4 means a portable device that automatically tests breath, blood, 5 or transdermal alcohol concentration levels at least once every 6 thirty minutes, detects tamper attempts regarding such device, 7 and automatically transmits such data to the appropriate 8 judicial district department of correctional services, 9 regardless of the location of the person being monitored. 10 Sec. 2. Section 321J.2, subsection 2, paragraph b, Code 11 2009, is amended to read as follows: 12 b. An aggravated misdemeanor for a second offense, and

13 shall be imprisoned in the county jail or community-based 14 correctional facility not less than seven days, and assessed a 15 fine of not less than one thousand eight hundred seventy-five 16 dollars nor more than six thousand two hundred fifty dollars. 17 <u>In addition, as a condition of probation, the court may order</u> 18 <u>the defendant to abstain from consuming or using alcohol or any</u> 19 <u>product containing alcohol and to wear a continuous alcohol</u> 20 <u>monitoring device for a period of time not to exceed the</u> 21 <u>defendant's period of probation.</u>

Sec. 3. Section 321J.2, subsection 2, paragraph c, Code 23 2009, is amended by adding the following new subparagraph: <u>NEW SUBPARAGRAPH</u>. (3) In addition, as a condition of 25 probation, the court may order the defendant to abstain from 26 consuming or using alcohol or any product containing alcohol 27 and to wear a continuous alcohol monitoring device for a period 28 of time not to exceed the defendant's period of probation. 29 Sec. 4. Section 321J.4, subsection 8, paragraph f, Code 30 Supplement 2009, is amended to read as follows:

31 f. A person who tampers with or circumvents an ignition 32 interlock device installed under a court order while an order 33 is in effect commits a serious misdemeanor. In addition to any 34 other penalty for such violation, as a condition of probation, 35 the court may require the person to refrain from consuming or

LSB 5249DP (5) 83

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-1-

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1 using alcohol or any other products containing alcohol and to

2 wear a continuous alcohol monitoring device for a period of

3 time not to exceed the defendant's period of probation.

4 Sec. 5. Section 321J.21, subsection 1, Code 2009, is amended 5 to read as follows:

A person whose driver's license or nonresident operating
privilege has been suspended, denied, revoked, or barred due
to a violation of this chapter and who drives a motor vehicle
while the license or privilege is suspended, denied, revoked,
or barred commits a serious misdemeanor. In addition to any
other penalties, the punishment imposed for a violation of this
subsection shall include assessment of a fine of one thousand
dollars. In addition, as a condition of probation, the court
may require the person to refrain from consuming or using
alcohol or any other products containing alcohol and to wear a
continuous alcohol monitoring device for a period of time not
to exceed the defendant's period of probation.

18 Sec. 6. Section 902.9, Code 2009, is amended by adding the 19 following new unnumbered paragraph:

20 <u>NEW UNNUMBERED PARAGRAPH</u>. In addition to the penalties set 21 forth in this section or elsewhere in the Code, the court may 22 order the defendant, as a condition of probation, to abstain 23 from consuming or using alcohol or any product containing 24 alcohol and to wear a continuous alcohol monitoring device for 25 a period of time not to exceed the length of the defendant's 26 period of probation.

27 Sec. 7. Section 903.1, Code 2009, is amended by adding the 28 following new subsection:

29 <u>NEW SUBSECTION</u>. 5. In addition to the penalties set forth 30 in this section or elsewhere in the Code, the court may order 31 the defendant, as a condition of probation, to abstain from 32 consuming or using alcohol or any product containing alcohol 33 and to wear a continuous alcohol monitoring device for a period 34 of time not to exceed the length of the defendant's period of 35 probation.

-2-

LSB 5249DP (5) 83 rh/nh 1 Sec. 8. Section 907.6, Code 2009, is amended to read as
2 follows:

3 907.6 Conditions of probation — regulations.

4 1. Probationers are subject to the conditions established 5 by the judicial district department of correctional services 6 subject to the approval of the court, and any additional 7 reasonable conditions which the court or district department 8 may impose to promote rehabilitation of the defendant or 9 protection of the community. Conditions may include but are 10 not limited to adherence to regulations generally applicable 11 to persons released on parole and including requiring unpaid 12 community service as allowed pursuant to section 907.13. 13 2. In addition to any other conditions or penalties 14 applicable pursuant to this section or elsewhere in the Code, 15 the court may order or the judicial district department of 16 correctional services may require, subject to the approval 17 of the court, that as a condition of probation the defendant 18 abstain from consuming or using alcohol or any product 19 containing alcohol and wear a continuous alcohol monitoring 20 device for a period of time not to exceed the length of the 21 defendant's period of probation.

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EXPLANATION

This bill provides that a person who is placed on probation for a conviction of a second or subsequent operating-while-intoxicated offense, who tampers with or circumvents an ignition interlock device installed under a court order while an order is in effect, or who drives a motor vehicle while the person's driver's license or nonresident operating privilege is suspended, denied, revoked, or barred may be required by the court to refrain from consuming or using alcohol or any other products containing alcohol and to wear a continuous alcohol monitoring device for a period of time not to exceed the defendant's period of probation.

The bill makes conforming changes to general sentencing provisions relating to felons and misdemeanants, and for

-3-

LSB 5249DP (5) 83 rh/nh 1 persons on probation.

2 The bill defines a continuous alcohol monitoring device as 3 a portable device that automatically tests breath, blood, or 4 transdermal alcohol concentration levels at least once every 5 30 minutes, detects tamper attempts regarding such device, and 6 automatically transmits such data to the appropriate judicial 7 district department of correctional services, regardless of the 8 location of the person being monitored.

-4-