

House File 2015 - Introduced

HOUSE FILE 2015

BY SALMON

A BILL FOR

1 An Act relating to the administration of portable breath tests
2 in operating-while-intoxicated cases, including the use of
3 test results in court actions.

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

1 Section 1. Section 321J.5, subsection 2, Code 2018, is
2 amended to read as follows:

3 2. The results of this preliminary screening test may be
4 used for the purpose of deciding whether an arrest should be
5 made or whether to request a chemical test authorized in this
6 chapter, but shall not be used in any court action except
7 to prove that a chemical test was properly requested of a
8 person pursuant to [this chapter](#). This subsection shall not be
9 construed to prohibit the results of a portable breath test
10 administered after a preliminary screening test pursuant to
11 section 321J.6, subsection 2, from being used as evidence in
12 any court action.

13 Sec. 2. Section 321J.6, subsection 2, Code 2018, is amended
14 to read as follows:

15 2. The peace officer shall determine which of the three
16 substances, breath, blood, or urine, shall be tested. If the
17 peace officer determines the person's breath shall be tested
18 following the administration of a preliminary screening test,
19 a portable breath testing instrument designed to determine
20 alcohol concentration may be used if the test is administered
21 by a certified operator of the instrument using methods
22 approved by the commissioner of public safety. Refusal to
23 submit to a chemical test of urine or breath is deemed a
24 refusal to submit, and [section 321J.9](#) applies. A refusal to
25 submit to a chemical test of blood is not deemed a refusal
26 to submit, but in that case, the peace officer shall then
27 determine which one of the other two substances shall be tested
28 and shall offer the test. If the peace officer fails to offer
29 a test within two hours after the preliminary screening test is
30 administered or refused or the arrest is made, whichever occurs
31 first, a test is not required, and there shall be no revocation
32 under [section 321J.9](#).

33 Sec. 3. Section 321J.15, Code 2018, is amended to read as
34 follows:

35 **321J.15 Evidence in any action.**

1 Upon the trial of a civil or criminal action or proceeding
2 arising out of acts alleged to have been committed by a
3 person while operating a motor vehicle in violation of section
4 321J.2 or 321J.2A, evidence of the alcohol concentration or
5 the presence of a controlled substance or other drugs in the
6 person's body at the time of the act alleged as shown by a
7 chemical analysis of the person's blood, breath, or urine is
8 admissible. If it is established at trial that an analysis of
9 a breath specimen was performed by a certified operator using a
10 device intended to determine alcohol concentration, including
11 but not limited to a portable breath testing instrument,
12 and methods approved by the commissioner of public safety,
13 no further foundation is necessary for introduction of the
14 evidence.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill provides that when a peace officer determines
19 a person's breath shall be tested for purposes of an
20 operating-while-intoxicated violation following the
21 administration of a preliminary screening test, a portable
22 breath testing instrument designed to determine alcohol
23 concentration may be used if the test is administered by a
24 certified operator of the instrument using methods approved
25 by the commissioner of public safety. The bill also allows
26 results from portable breath testing instruments to be used in
27 court actions.