

House File 2022 - Introduced

HOUSE FILE 2022

BY SALMON

A BILL FOR

1 An Act relating to impoundment and immobilization of motor
2 vehicles involved in operating-while-intoxicated offenses,
3 and providing penalties.

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

1 Section 1. Section 321J.4B, subsection 2, Code 2018, is
2 amended to read as follows:

3 2. *a.* A motor vehicle is subject to impoundment or
4 immobilization in the following circumstances:

5 (1) If a person operates a vehicle in violation of section
6 321J.2, and if convicted for that conduct, the conviction would
7 be a second or subsequent offense under section 321J.2.

8 (2) If a person operates a vehicle while that person's
9 driver's license or nonresident operating privilege has been
10 suspended, denied, revoked, or barred due to a violation of
11 section 321J.2, in violation of section 321J.21.

12 *b.* The clerk of court shall send notice of a conviction of
13 an offense for which the vehicle was impounded or immobilized
14 to the impounding or immobilizing authority upon conviction of
15 the defendant for such offense.

16 *c.* Impoundment or immobilization of the vehicle under this
17 section may occur in addition to any criminal penalty imposed
18 under chapter 321 or this chapter for the underlying criminal
19 offense.

20 Sec. 2. Section 321J.4B, subsection 4, Code 2018, is amended
21 to read as follows:

22 4. An owner of a motor vehicle impounded or immobilized
23 under this section, who knows of, should have known of,
24 or gives consent to the operation of, the motor vehicle in
25 violation of subsection 2, paragraph "a", subparagraph (2),
26 shall be considered to be all of the following:

27 *a.* Guilty of a simple serious misdemeanor, ~~and~~.

28 *b.* Jointly and severally liable for any damages caused
29 by the person who operated the motor vehicle, subject to the
30 provisions of chapter 668.

31 Sec. 3. Section 321J.4B, subsection 5, paragraph d, Code
32 2018, is amended to read as follows:

33 *d.* The period of impoundment or immobilization of a motor
34 vehicle under this section shall be the period of license
35 revocation imposed upon the person convicted of the offense or

1 ~~one hundred eighty days~~ year, whichever period is longer. The
2 impoundment or immobilization period shall commence on the day
3 that the vehicle is first impounded or immobilized.

4 Sec. 4. Section 321J.4B, subsection 6, Code 2018, is amended
5 to read as follows:

6 6. Upon conviction of the defendant for a first violation
7 of subsection 2, paragraph "a", subparagraph (2), where the
8 defendant's driver's license was originally revoked as a result
9 of a second or subsequent violation of section 321J.2, or
10 upon conviction of the defendant for a second or subsequent
11 violation of subsection 2, paragraph "a", subparagraph (2),
12 the court shall order, if the ~~convicted person~~ defendant is
13 the owner of the motor vehicle used in the commission of the
14 offense, that ~~that~~ the motor vehicle be seized and forfeited to
15 the state pursuant to chapters 809 and 809A.

16 Sec. 5. Section 321J.21, subsection 1, Code 2018, is amended
17 to read as follows:

18 1. A person whose driver's license or nonresident operating
19 privilege has been suspended, denied, revoked, or barred due
20 to a violation of this chapter and who drives a motor vehicle
21 while the license or privilege is suspended, denied, revoked,
22 or barred commits a serious misdemeanor. In addition to any
23 other penalties, the punishment imposed for a violation of this
24 subsection shall include assessment of a fine of one thousand
25 dollars and, if the person is the owner of the motor vehicle
26 used in the commission of the offense, immobilization of the
27 motor vehicle by the installation of a device in the motor
28 vehicle that completely prevents the motor vehicle from being
29 operated in accordance with section 321J.4B.

30 Sec. 6. Section 809A.3, subsection 2, Code 2018, is amended
31 to read as follows:

32 2. Notwithstanding subsection 1, violations of chapter
33 321 or 321J shall not be considered conduct giving rise to
34 forfeiture, ~~except for violations~~ as provided in any of the
35 following:

1 a. Section 321.232.

2 ~~b. A second or subsequent violation of section 321J.4B,~~
3 ~~subsection 2, paragraph "a", subparagraph (2).~~

4 ~~c.~~ b. Section 321J.4B, subsection 6, 9, or 10.

5

EXPLANATION

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

8 Under current law, a motor vehicle operated by a person while
9 committing a second or subsequent operating-while-intoxicated
10 (OWI) offense, or while that person's driver's license has been
11 suspended, denied, revoked, or barred due to an OWI offense,
12 may be immediately impounded or immobilized (Code section
13 321J.4B). An owner of a vehicle impounded or immobilized,
14 who knows of, should have known of, or gives consent to the
15 operation of the vehicle by a person while that person's
16 driver's license has been suspended, denied, revoked, or barred
17 due to an OWI offense is guilty of a simple misdemeanor. A
18 simple misdemeanor is punishable by a fine of at least \$65 but
19 not to exceed \$625 and imprisonment not to exceed 30 days.
20 This bill alters the violation to a serious misdemeanor. A
21 serious misdemeanor is punishable by a fine of at least \$315
22 but not to exceed \$1,875 and imprisonment not to exceed one
23 year.

24 Under current law, the period of impoundment or
25 immobilization is the period of license revocation imposed upon
26 the person convicted of the OWI offense or 180 days, whichever
27 period is longer. The bill increases the period to the period
28 of license revocation imposed upon the person convicted of the
29 OWI offense or one year, whichever period is longer.

30 Under current law, upon conviction of the defendant for a
31 second or subsequent violation of operating a vehicle while
32 that person's driver's license has been suspended, denied,
33 revoked, or barred due to an OWI offense, a court is required
34 to order, if the defendant is the owner of the vehicle used in
35 the commission of the offense, that the vehicle be seized and

1 forfeited to the state. The bill provides that the vehicle
2 must also be seized and forfeited to the state upon conviction
3 of the defendant for a first violation of operating a vehicle
4 while that person's driver's license has been suspended,
5 denied, revoked, or barred due to a second or subsequent OWI
6 offense.

7 In addition, the bill provides that if a person is convicted
8 of a violation of Code section 321J.21 (driving while license
9 suspended, denied, revoked, or barred due to an OWI offense),
10 and if the person is the owner of the vehicle used in the
11 commission of the offense, the vehicle must be immobilized
12 through the installation of a device in the vehicle that
13 completely prevents the vehicle from being operated in
14 accordance with Code section 321J.4B.

15 The bill also amends Code sections 321J.4B and 809A.3 for
16 clarity and consistency.