

House Study Bill 131 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON BAUDLER)

A BILL FOR

1 An Act relating to motor vehicle impoundment when a motor
2 vehicle is operated by a person with a denied, canceled,
3 suspended, or revoked driver's license, and providing
4 penalties.

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

1 Section 1. Section 321.89, subsection 1, paragraph a,
2 subparagraph (6), Code 2017, is amended to read as follows:

3 (6) A vehicle that has been impounded pursuant to section
4 321.218B or 321J.4B by order of the court and whose owner has
5 not paid the impoundment fees after notification by the person
6 or agency responsible for carrying out the impoundment order.

7 Sec. 2. Section 321.218, subsection 1, Code 2017, is amended
8 to read as follows:

9 1. A person whose driver's license or operating privilege
10 has been denied, canceled, suspended, or revoked as provided
11 in [this chapter](#) or as provided in [section 252J.8](#) or section
12 901.5, subsection 10, and who operates a motor vehicle upon
13 the highways of this state while the license or privilege
14 is denied, canceled, suspended, or revoked, commits a
15 simple misdemeanor. In addition to any other penalties, the
16 punishment imposed for a violation of [this subsection](#) shall
17 include assessment of a fine of not less than two hundred fifty
18 dollars nor more than one thousand five hundred dollars and
19 impoundment, pursuant to section 321.218B, of the motor vehicle
20 operated in violation of this subsection.

21 Sec. 3. **NEW SECTION. 321.218B Motor vehicle impoundment —**
22 **penalty — liability of vehicle owner.**

23 1. For purposes of this section:

24 a. "Impoundment" means the process of seizure and
25 confinement of a motor vehicle within an enclosed area, for the
26 purpose of restricting access to the vehicle.

27 b. "Owner" means the registered titleholder of a motor
28 vehicle, except in the case where a rental or leasing agency
29 is the registered titleholder, in which case the lessee of
30 the vehicle shall be treated as the owner of the vehicle for
31 purposes of this section.

32 2. a. A motor vehicle is subject to impoundment if a person
33 operates the vehicle while the person's driver's license or
34 operating privilege has been denied, canceled, suspended, or
35 revoked in violation of section 321.218, subsection 1.

1 *b.* Impoundment of the vehicle under this section may occur
2 in addition to any penalty imposed under this chapter for the
3 underlying criminal offense.

4 3. The motor vehicle operated by the person in violation of
5 section 321.218, subsection 1, may be immediately impounded in
6 accordance with this section.

7 *a.* A person or agency taking possession of an impounded
8 motor vehicle shall do the following:

9 (1) Make an inventory of any property contained in the
10 vehicle, according to the person's or agency's inventory
11 procedure. The person or agency responsible for the vehicle
12 shall also deliver a copy of the inventory to the county
13 attorney.

14 (2) Contact all rental or leasing agencies registered as
15 owners of the vehicle, as well as any parties registered as
16 holders of a secured interest in the vehicle, in accordance
17 with subsection 11.

18 *b.* The county attorney shall file a copy of the inventory
19 with the district court as part of each file related to the
20 violation of section 321.218, subsection 1.

21 4. An owner of a motor vehicle impounded under this section,
22 who knows of, should have known of, or gives consent to the
23 operation of the vehicle in violation of section 321.218,
24 subsection 1, shall be all of the following:

25 *a.* Guilty of a simple misdemeanor.

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

29 5. *a.* (1) The following persons shall be entitled to
30 immediate return of the motor vehicle without payment of costs
31 associated with the impoundment of the vehicle:

32 (i) The owner of the motor vehicle, if the person who
33 operated the vehicle is not a co-owner of the vehicle.

34 (ii) A motor vehicle rental or leasing agency that owns the
35 vehicle.

1 (c) A person who owns the motor vehicle and who is charged
2 but is not convicted of the violation of section 321.218,
3 subsection 1, which resulted in the impoundment of the vehicle
4 under this section.

5 (2) A person shall be entitled to immediate return of the
6 vehicle after payment of costs associated with the impoundment
7 of the vehicle if all of the following apply:

8 (a) The person is an owner of the motor vehicle.

9 (b) The person's criminal charge for violating section
10 321.218, subsection 1, that resulted in the impoundment of the
11 vehicle is pending.

12 (c) The period of impoundment under paragraph "d" that would
13 be required if the person was convicted of the offense has
14 expired.

15 (3) A person who paid the costs associated with the
16 impoundment of the vehicle under subparagraph (2) shall be
17 reimbursed by the person or agency who received the payment for
18 the total amount paid if the person is not convicted of the
19 violation.

20 b. Upon conviction of the defendant for a violation of
21 section 321.218, subsection 1, the court may order continued
22 impoundment of the motor vehicle used in the commission of the
23 offense if the convicted person is the owner of the vehicle and
24 the period of impoundment required by paragraph "d" has not
25 expired. The court shall specify all of the following in the
26 order:

27 (1) The vehicle that is subject to the order.

28 (2) The period of impoundment.

29 (3) The person or agency responsible for carrying out the
30 order requiring continued impoundment of the vehicle.

31 c. If the vehicle subject to the order is in the custody
32 of a law enforcement agency, the court shall designate that
33 agency as the responsible agency. If the vehicle is not in
34 the custody of a law enforcement agency, the person or agency
35 responsible for carrying out the order shall be any person

1 deemed appropriate by the court, including but not limited to a
2 law enforcement agency with jurisdiction over the area in which
3 the residence of the vehicle owner is located.

4 *d.* The period of impoundment of a motor vehicle under this
5 section shall be seven days for a first offense in violation
6 of section 321.218, subsection 1. For a second or subsequent
7 offense, the period of impoundment shall be double the number
8 of days required for the previous offense. The period of
9 impoundment shall commence on the first day that the vehicle
10 is impounded.

11 *e.* The clerk of the district court shall send a copy of the
12 order to the department, the person convicted of the offense,
13 the person or agency responsible for executing the order for
14 impoundment, and any holders of any security interests in the
15 vehicle.

16 *f.* (1) If the vehicle subject to the court order is not in
17 the custody of a law enforcement agency, the person or agency
18 designated in the order as the person or agency responsible for
19 executing the order shall, upon receipt of the order, promptly
20 locate the vehicle specified in the order, seize the vehicle
21 and the license plates, and send or deliver the vehicle's
22 license plates to the department.

23 (2) If the vehicle is located at a place other than the
24 place at which the court order is to be carried out, the person
25 or agency responsible for executing the order shall arrange
26 for the vehicle to be moved to the place of impoundment. When
27 the vehicle is found, is impounded, and is at the place of
28 impoundment, the person or agency responsible for executing the
29 order shall notify the clerk of the date on which the order was
30 executed. The clerk shall notify the department of the date on
31 which the order was executed.

32 *g.* Upon receipt of a court order for continued impoundment
33 of the motor vehicle, the person or agency shall review the
34 value of the vehicle in relation to the costs associated with
35 the period of impoundment of the vehicle specified in the

1 order. If the person or agency determines that the costs of
2 impoundment of the vehicle exceed the actual wholesale value of
3 the vehicle, the person or agency may treat the vehicle as an
4 abandoned vehicle pursuant to section 321.89. If the person or
5 agency elects to treat the vehicle as abandoned, the person or
6 agency shall notify the registered owner of the vehicle that
7 the vehicle shall be deemed abandoned and shall be sold in the
8 manner provided in section 321.89 if payment of the total cost
9 of impoundment is not received within twenty-one days of the
10 mailing of the notice. The person or agency shall provide
11 documentation regarding the valuation of the vehicle and the
12 costs of impoundment.

13 6. *a.* Upon receipt of a court order for continued
14 impoundment of the motor vehicle, the impounding authority
15 shall seize the vehicle's license plates and registration, and
16 shall send or deliver them to the department.

17 *b.* The department shall destroy license plates received
18 under this section and shall not authorize the release of the
19 vehicle or the issuance of new license plates for the vehicle
20 until the period of impoundment has expired, and the fee and
21 costs assessed under subsection 7 have been paid. The fee for
22 issuance of new license plates and certificates of registration
23 shall be the same as for the replacement of lost, mutilated, or
24 destroyed license plates and certificates of registration.

25 7. *a.* Upon conviction of a person for a violation of
26 section 321.218, subsection 1, and impoundment of the vehicle
27 under this section, the court shall assess to the person, in
28 addition to any other penalty, the amount of any expenses for
29 towing, storage, and any other costs of impounding the vehicle,
30 to be paid to the clerk of the district court. However, the
31 amount assessed to the person for storage of the vehicle shall
32 not exceed twenty-five dollars per day.

33 *b.* The person or agency responsible for impoundment under
34 this section shall inform the court of the costs of towing,
35 storage, and any other costs of impounding the vehicle. Upon

1 payment of the costs, the clerk shall forward a copy of the
2 receipt to the department.

3 c. If a law enforcement agency impounds a motor vehicle,
4 the amount of the expenses deposited with the clerk shall be
5 paid by the clerk to the law enforcement agency responsible
6 for executing the order to reimburse the agency for costs
7 incurred for impoundment equipment and, if required, in sending
8 officers to search for and locate the vehicle specified in the
9 impoundment order.

10 8. Operating a motor vehicle on a street or highway in this
11 state in violation of an order of impoundment is a serious
12 misdemeanor. A motor vehicle which is subject to an order of
13 impoundment that is operated on a street or highway in this
14 state in violation of the order shall be seized and forfeited
15 to the state under chapters 809 and 809A.

16 9. Once the period of impoundment has expired, the owner of
17 the motor vehicle shall have thirty days to claim the vehicle
18 and pay all charges imposed under this section. If the owner
19 or the owner's designee has not claimed the vehicle and paid
20 all charges imposed under this section within seven days from
21 the date of expiration of the period, the clerk shall send
22 written notification to the vehicle owner, at the owner's last
23 known address, notifying the owner of the date of expiration
24 of the period of impoundment and of the period in which the
25 vehicle must be claimed. If the vehicle owner fails to claim
26 the vehicle and pay all charges imposed within the thirty-day
27 period, the vehicle shall be forfeited to the state under
28 chapters 809 and 809A.

29 10. a. (1) During the period of impoundment, the owner of
30 an impounded vehicle shall not sell or transfer the title of
31 the vehicle.

32 (2) A person convicted of an offense under section 321.218,
33 subsection 1, shall not purchase or register any motor vehicle
34 during the period of impoundment or license revocation.

35 (3) A violation of this paragraph "a" is a serious

1 misdemeanor.

2 *b.* If, during the period of impoundment, the title to the
3 motor vehicle which is the subject of the order is transferred
4 by the foreclosure of a chattel mortgage, a sale upon
5 execution, the cancellation of a conditional sales contract,
6 or an order of a court, the court which enters the order that
7 permits transfer of the title shall notify the department of
8 the transfer of the title. The department shall enter notice
9 of the transfer of the title to the vehicle in the previous
10 owner's vehicle registration record.

11 11. *a.* Notwithstanding other requirements of this section:

12 (1) Upon learning the address or phone number of a rental
13 or leasing company which owns a motor vehicle impounded under
14 this section, the peace officer, county attorney, or attorney
15 general shall immediately contact the company to inform
16 the company that the vehicle is available for return to the
17 company.

18 (2) The holder of a security interest in a vehicle which
19 is impounded pursuant to this section or forfeited in the
20 manner provided in chapters 809 and 809A shall be notified of
21 the impoundment or forfeiture within seventy-two hours of the
22 seizure of the vehicle and shall have the right to claim the
23 vehicle without payment of any fees or surcharges unless the
24 value of the vehicle exceeds the value of the security interest
25 held by the creditor.

26 (3) Any of the following persons may make application
27 to the court for permission to operate a motor vehicle which
28 is impounded pursuant to this section during the period of
29 impoundment, if the applicant's driver's license or operating
30 privilege has not been suspended, denied, revoked, or barred:

31 (a) A person, other than the person who committed the
32 offense which resulted in the impoundment, who is not a member
33 of the immediate family of the person who committed the offense
34 but is a joint owner of the vehicle.

35 (b) A member of the immediate family of the person who

1 committed the offense which resulted in the impoundment, if
2 the member demonstrates that the vehicle that is subject to
3 the order for impoundment is the only vehicle possessed by the
4 family.

5 *b.* For purposes of this section, "*a member of the immediate*
6 *family*" means a spouse, child, or parent of the person who
7 committed the offense.

8 12. The impoundment or forfeiture of a motor vehicle under
9 this section does not constitute loss of use of a motor vehicle
10 for purposes of any contract of insurance.

11 Sec. 4. Section 809A.3, subsection 2, Code 2017, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. *0a.* Section 321.218B, subsection 8.

14 EXPLANATION

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

17 This bill provides for the impoundment of a motor vehicle
18 operated by a person whose driver's license or operating
19 privilege has been denied, canceled, suspended, or revoked in
20 violation of Code section 321.218. The impoundment procedures
21 set forth in the bill are similar to those set forth in Code
22 section 321J.4B, which deals with vehicle impoundment related
23 to operating-while-intoxicated offenses. The bill provides
24 that a vehicle operated by a person in violation of Code
25 section 321.218 may be immediately impounded.

26 Under the bill, the owner of an impounded motor vehicle
27 who knows of, should have known of, or gives consent to the
28 operation of the vehicle in violation of Code section 321.218
29 is guilty of a simple misdemeanor and jointly and severally
30 liable for any damages caused by the person who operated the
31 vehicle. A simple misdemeanor is punishable by a fine of at
32 least \$65 but not to exceed \$625 and imprisonment not to exceed
33 30 days.

34 The bill provides that certain persons are entitled to
35 immediate return of the impounded vehicle without payment of

1 costs, including the owner of the vehicle if the person who
2 operated the vehicle is not a co-owner, a motor vehicle rental
3 or leasing agency that owns the vehicle, and a person who
4 owns the vehicle and who is charged but not convicted of the
5 violation which resulted in the impoundment.

6 A person shall be entitled to immediate return of the vehicle
7 after payment of costs associated with the impoundment if
8 the person is an owner of the vehicle, the person's criminal
9 charge that resulted in the impoundment is pending, and the
10 period of impoundment that would be required if the person was
11 convicted of the offense has expired. A person who paid the
12 costs associated with the impoundment shall be reimbursed by
13 the person or agency who received the payment if the person is
14 not convicted of the violation.

15 The bill provides that a court may order the continued
16 impoundment of the vehicle if the convicted person is the owner
17 of the vehicle and the required period of impoundment has not
18 expired. The period of impoundment of a vehicle under the bill
19 is seven days for a first offense. For a second or subsequent
20 offense, the period of impoundment is double the number of days
21 required for the previous offense. For example, for a third
22 offense, the period is 28 days, and for a fifth offense, the
23 period is 112 days.

24 The bill requires the clerk of the district court to send a
25 copy of the order to the department of transportation (DOT),
26 the person convicted of the offense, the person or agency
27 responsible for executing the order for impoundment, and any
28 holders of any security interests in the vehicle.

29 The bill provides that the person or agency responsible for
30 executing the order shall, upon receipt of the order, promptly
31 locate the vehicle specified in the order, seize the vehicle
32 and the registration plates, arrange for the vehicle to be
33 moved to the place of impoundment, and send or deliver the
34 vehicle's registration plates to the DOT.

35 If the person or agency responsible for impounding the

1 vehicle determines that the costs of impoundment exceed the
2 actual wholesale value of the vehicle, the person or agency
3 may treat the vehicle as an abandoned vehicle and notify the
4 registered owner that the vehicle shall be deemed abandoned and
5 shall be sold if payment of the total cost of impoundment is
6 not received within 21 days.

7 The bill requires the DOT to destroy registration plates
8 received under the bill and prohibits the DOT from authorizing
9 the release of the vehicle or issuing new plates for the
10 vehicle until the period of impoundment has expired and the
11 costs have been paid.

12 The bill provides that the court shall assess to the person,
13 in addition to any other penalty, the amount of any expenses
14 for towing, storage, and any other costs of impounding the
15 vehicle. However, the amount assessed to the person for
16 storage of the vehicle shall not exceed \$25 per day.

17 The bill prohibits operating a motor vehicle in violation
18 of an order for impoundment, and provides that a violation is
19 a serious misdemeanor. A serious misdemeanor is punishable
20 by a fine of at least \$315 but not more than \$1,875, and
21 imprisonment not to exceed one year. In addition, the bill
22 provides that a motor vehicle which is subject to an order
23 for impoundment that is operated on a street or highway shall
24 be seized and forfeited to the state under Code chapters 809
25 (disposition of seized property) and 809A (forfeiture reform
26 Act).

27 Once the period of impoundment has expired, the owner of
28 the vehicle shall have 30 days to claim the vehicle and pay
29 all charges. If the owner has not claimed the vehicle and
30 paid all charges within seven days from the date of expiration
31 of the period, the bill requires the clerk to send written
32 notification to the vehicle owner, at the owner's last known
33 address, notifying the owner of the date of expiration of the
34 period of impoundment and of the period in which the vehicle
35 must be claimed. If the vehicle owner fails to claim the

1 vehicle and pay all charges imposed within the 30-day period,
2 the vehicle shall be forfeited to the state under Code chapters
3 809 and 809A.

4 During the period of impoundment, the bill prohibits the
5 owner of an impounded vehicle from selling or transferring the
6 title of the vehicle and from purchasing or registering any
7 other vehicle. A violation of this provision is a serious
8 misdemeanor. However, a court may permit transfer of the title
9 in certain circumstances, and is required to notify the DOT of
10 the title transfer.

11 The bill requires that upon learning the address or phone
12 number of a rental or leasing company which owns an impounded
13 vehicle, the peace officer, county attorney, or attorney
14 general shall immediately contact the company to inform
15 the company that the vehicle is available for return to the
16 company. The holder of a security interest in a vehicle which
17 is impounded or forfeited shall be notified of the impoundment
18 or forfeiture within 72 hours of the seizure of the vehicle and
19 shall have the right to claim the vehicle without payment of
20 any fees or surcharges unless the value of the vehicle exceeds
21 the value of the security interest held by the creditor.

22 The bill provides that certain persons may apply to the
23 court for permission to operate a vehicle which is impounded,
24 including a person other than the person who committed the
25 offense who is not a member of the immediate family of the
26 person who committed the offense but is a joint owner of the
27 vehicle, and a member of the immediate family of the person
28 who committed the offense if the member demonstrates that the
29 vehicle is the only vehicle possessed by the family.

30 The impoundment or forfeiture of a motor vehicle under the
31 bill does not constitute loss of use of a vehicle for purposes
32 of any contract of insurance.