

House File 2393 - Introduced

HOUSE FILE 2393

BY BERGAN

A BILL FOR

1 An Act relating to operating-while-intoxicated offenses,
2 including the lookback period for prior convictions,
3 temporary restricted licenses, and ignition interlock
4 devices, providing penalties, and making penalties
5 applicable.

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

1 Section 1. Section 321.12, subsection 4, Code 2022, is
2 amended to read as follows:

3 4. The ~~director~~ department shall not destroy any operating
4 records of a person still living pertaining to arrests or
5 convictions for operating while intoxicated, in violation of
6 section 321J.2, or reckless driving in violation of section
7 321.277 and public intoxication in violation of section 123.46,
8 subsection 2, following an arrest for a violation of section
9 321J.2, or operating records pertaining to revocations for
10 violations of section 321J.2A, ~~except that a conviction or~~
11 ~~revocation under section 321J.2 or 321J.2A that is not subject~~
12 ~~to 49 C.F.R. pt. 383 shall be deleted from the operating~~
13 ~~records twelve years after the date of conviction or the~~
14 ~~effective date of revocation. Convictions or revocations that~~
15 ~~are retained in the operating records for more than twelve~~
16 ~~years under this subsection shall be considered only for~~
17 ~~purposes of disqualification actions under 49 C.F.R. pt. 383.~~

18 Sec. 2. Section 321.101, Code 2022, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 1A. When a vehicle is registered to
21 an owner subject to ignition interlock device requirements
22 pursuant to section 321J.20, the department shall suspend the
23 registration of the vehicle until the department receives
24 reasonable proof that the person has complied with section
25 321J.20. However, the department shall not suspend the
26 registration, or shall reinstate a registration suspended under
27 this subsection, if a family member of an owner who is subject
28 to ignition interlock device requirements submits an affidavit
29 to the department declaring that the family member regularly
30 operated the motor vehicle registered to the owner prior to
31 the owner's revocation under chapter 321J and affirming the
32 family member will not knowingly allow the owner to operate the
33 motor vehicle. A person who submits such an affidavit and who
34 knowingly allows the owner to operate the vehicle or provides
35 access to and use of the vehicle to the owner while the owner

1 is subject to ignition interlock device requirements and the
2 vehicle does not have an ignition interlock device installed is
3 guilty of a simple misdemeanor.

4 Sec. 3. Section 321J.2, subsection 3, paragraph d, Code
5 2022, is amended to read as follows:

6 *d.* Revocation of the person's driver's license for a minimum
7 period of one hundred eighty days up to a maximum revocation
8 period of one year, pursuant to section 321J.4, subsection
9 1, [section 321J.9](#), or [section 321J.12](#). ~~The department shall~~
10 ~~require the defendant to install an ignition interlock device~~
11 ~~of a type approved by the commissioner of public safety on all~~
12 ~~vehicles operated by the defendant if the defendant seeks a~~
13 ~~temporary restricted license.~~

14 Sec. 4. Section 321J.2, subsection 8, paragraph a, Code
15 2022, is amended to read as follows:

16 *a.* Any conviction or revocation ~~deleted from motor vehicle~~
17 ~~operating records pursuant to [section 321.12](#) under this~~
18 ~~section, or any conviction for reckless driving in violation of~~
19 ~~section 321.277 and public intoxication in violation of section~~
20 ~~123.46, subsection 2, following an arrest for a violation of~~
21 ~~this section shall not be considered as a previous offense.~~

22 Sec. 5. Section 321J.4, subsections 1, 2, 3, and 4, Code
23 2022, are amended to read as follows:

24 1. If a defendant is convicted of a violation of section
25 321J.2 and the defendant's driver's license or nonresident
26 operating privilege has not been revoked under [section 321J.9](#)
27 or [321J.12](#) for the occurrence from which the arrest arose, the
28 department shall revoke the defendant's driver's license or
29 nonresident operating privilege for one hundred eighty days
30 if the defendant submitted to chemical testing and has had
31 no previous conviction or revocation under [this chapter](#) and
32 shall revoke the defendant's driver's license or nonresident
33 operating privilege for one year if the defendant refused to
34 submit to chemical testing and has had no previous conviction
35 or revocation under [this chapter](#). ~~The department shall require~~

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

5 2. If a defendant is convicted of a violation of section
6 321J.2, and the defendant's driver's license or nonresident
7 operating privilege has not already been revoked under section
8 321J.9 or [321J.12](#) for the occurrence from which the arrest
9 arose, the department shall revoke the defendant's driver's
10 license or nonresident operating privilege for one year if the
11 defendant submitted to chemical testing and has had a previous
12 conviction or revocation under [this chapter](#) and shall revoke
13 the defendant's driver's license or nonresident operating
14 privilege for two years if the defendant refused to submit
15 to chemical testing and has had a previous revocation under
16 this chapter. ~~The department shall require the defendant to
17 install an ignition interlock device of a type approved by the
18 commissioner of public safety on all vehicles owned or operated
19 by the defendant if the defendant seeks a temporary restricted
20 license. A temporary restricted license shall not be granted
21 by the department until the defendant installs the ignition
22 interlock device.~~

23 3. If the court defers judgment pursuant to [section 907.3](#)
24 for a violation of [section 321J.2](#), and if the defendant's
25 driver's license or nonresident operating privilege has not
26 been revoked under [section 321J.9](#) or [321J.12](#), or has not
27 otherwise been revoked for the occurrence from which the arrest
28 arose, the department shall revoke the defendant's driver's
29 license or nonresident operating privilege for a period of
30 not less than thirty days nor more than ninety days. ~~The
31 department shall require the defendant to install an ignition
32 interlock device of a type approved by the commissioner of
33 public safety on all vehicles operated by the defendant if the
34 defendant seeks a temporary restricted license.~~

35 4. Upon a plea or verdict of guilty of a third or subsequent

1 violation of [section 321J.2](#), the department shall revoke the
2 defendant's driver's license or nonresident operating privilege
3 for a period of six years. ~~The department shall require the~~
4 ~~defendant to install an ignition interlock device of a type~~
5 ~~approved by the commissioner of public safety on all vehicles~~
6 ~~owned or operated by the defendant if the defendant seeks a~~
7 ~~temporary restricted license. A temporary restricted license~~
8 ~~shall not be granted by the department until the defendant~~
9 ~~installs the ignition interlock device.~~

10 Sec. 6. Section 321J.4, Code 2022, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 4A. For revocations under subsection 1, 2,
13 3, or 4, the department shall require the defendant to install
14 an ignition interlock device pursuant to section 321J.20 if the
15 defendant seeks a temporary restricted license. The department
16 shall not grant a temporary restricted license until the
17 defendant installs the ignition interlock device pursuant to
18 section 321J.20.

19 Sec. 7. Section 321J.4, subsection 8, paragraphs a, b, c,
20 and d, Code 2022, are amended to read as follows:

21 a. On a conviction for or as a condition of a deferred
22 judgment for a violation of [section 321J.2](#), the court may
23 order the defendant to install ignition interlock devices
24 ~~of a type approved by the commissioner of public safety on~~
25 ~~all motor vehicles owned or operated by the defendant which,~~
26 ~~without tampering or the intervention of another person, would~~
27 ~~prevent the defendant from operating the motor vehicle with~~
28 ~~an alcohol concentration greater than a level set by rule of~~
29 ~~the commissioner of public safety pursuant to section 321J.20.~~
30 ~~However, if the defendant has had no previous conviction or~~
31 ~~revocation under [this chapter](#), the court's order shall require~~
32 ~~the defendant to install approved ignition interlock devices~~
33 ~~only on all motor vehicles operated by the defendant.~~

34 b. ~~The commissioner of public safety shall adopt rules to~~
35 ~~approve certain ignition interlock devices and the means of~~

1 ~~installation of the devices, and shall establish the level of~~
2 ~~alcohol concentration beyond which an ignition interlock device~~
3 ~~will not allow operation of the motor vehicle in which it is~~
4 ~~installed.~~

5 ~~e.~~ b. The order to install ignition interlock devices shall
6 remain in effect for a period of time as determined by the
7 court which shall not exceed the maximum term of imprisonment
8 which the court could have imposed according to the nature of
9 the violation, unless otherwise extended under this chapter.
10 While the order is in effect, the defendant shall not operate
11 a motor vehicle which does not have an approved ignition
12 interlock device installed.

13 ~~d.~~ c. If the defendant's driver's license or nonresident
14 operating privilege has been revoked by court order, the
15 department shall not issue a temporary permit restricted
16 license or a driver's license to the person without
17 certification that approved ignition interlock devices have
18 been installed ~~on all motor vehicles owned or operated by~~
19 ~~the defendant pursuant to section 321J.20~~ while the order is
20 in effect. ~~However, if the defendant has had no previous~~
21 ~~conviction or revocation under this chapter~~, the department
22 shall require certification that approved ignition interlock
23 devices have been installed ~~only on all motor vehicles operated~~
24 ~~by the defendant.~~

25 Sec. 8. Section 321J.17, subsections 1 and 3, Code 2022, are
26 amended to read as follows:

27 1. If the department revokes a person's driver's license
28 or nonresident operating privilege under this chapter, the
29 department shall assess the person a civil penalty of two
30 hundred dollars. The money collected by the department under
31 this section shall be transmitted to the treasurer of state
32 who shall deposit one-half of the money in the separate fund
33 established in section 915.94 and one-half of the money in the
34 general fund of the state. A temporary restricted license
35 shall not be issued unless an ignition interlock device has

1 been installed pursuant to section ~~321J.4~~ 321J.20. Except as
2 provided in section 321.210B, a temporary restricted license
3 shall not be issued or a driver's license or nonresident
4 operating privilege reinstated until the civil penalty has been
5 paid. A person assessed a penalty under this section may remit
6 the civil penalty along with a processing fee of five dollars
7 to a county treasurer authorized to issue driver's licenses
8 under chapter 321M, or the civil penalty may be paid directly
9 to the department.

10 3. The department shall also require certification of
11 installation of an ignition interlock device ~~of a type approved~~
12 ~~by the commissioner of public safety on all motor vehicles~~
13 ~~owned or operated pursuant to section 321J.20~~ by any person
14 seeking reinstatement following a second or subsequent
15 revocation under section 321J.4, 321J.9, or 321J.12. The
16 requirement for the installation of an approved ignition
17 interlock device shall be for one year from the date of
18 reinstatement unless a longer time period is required by
19 statute. The one-year period a person is required to maintain
20 an ignition interlock device under this subsection shall be
21 reduced by any period of time the person held a valid temporary
22 restricted license during the period of the revocation for
23 the occurrence from which the arrest arose. The person shall
24 not operate any motor vehicle which is not equipped with an
25 approved ignition interlock device during the period in which
26 an ignition interlock device must be maintained, and the
27 department shall not grant reinstatement unless the person
28 certifies installation of an ignition interlock device as
29 required in ~~this subsection~~ section 321J.20.

30 Sec. 9. Section 321J.20, Code 2022, is amended to read as
31 follows:

32 **321J.20 Temporary restricted license — ignition interlock**
33 **devices.**

34 1. Temporary restricted license issuance.

35 a. The department may, on application, issue a temporary

1 restricted license to a person whose noncommercial driver's
 2 license is revoked under [this chapter](#), or revoked or suspended
 3 under [chapter 321](#) solely for violations of this chapter, or who
 4 has been determined to be a habitual offender under [chapter 321](#)
 5 based solely on violations of [this chapter](#) or on violations
 6 listed in [section 321.560, subsection 1](#), paragraph "b",
 7 allowing the person to operate a motor vehicle in any manner
 8 allowed for a person issued a valid class C driver's license,
 9 unless otherwise prohibited by [this chapter](#). This ~~subsection~~
 10 paragraph does not apply to a person whose license was revoked
 11 under [section 321J.2A](#), to a person whose license was revoked
 12 under [section 321J.4, subsection 6](#), for the period during which
 13 the person is ineligible for a temporary restricted license, or
 14 to a person whose license is suspended or revoked for another
 15 reason.

16 ~~2.~~ b. A temporary restricted license issued under this
 17 section shall not be issued until the applicant installs an
 18 approved ignition interlock device on all motor vehicles owned
 19 or operated by the applicant. However, if the applicant has
 20 had no previous conviction or revocation under [this chapter](#),
 21 a temporary restricted license issued under [this section](#)
 22 shall not be issued until the applicant installs an approved
 23 ignition interlock device on all motor vehicles operated by
 24 the applicant. Installation of an ignition interlock device
 25 under [this section](#) shall be required for the period of time
 26 for which the temporary restricted license is issued, and for
 27 such additional period of time following reinstatement as is
 28 required under [section 321J.17, subsection 3](#), or this section.
 29 ~~However, a person whose driver's license or nonresident~~
 30 ~~operating privilege has been revoked under [section 321J.21](#) may~~
 31 ~~apply to the department for a temporary restricted license~~
 32 ~~without the requirement of an ignition interlock device if at~~
 33 ~~least twelve years have elapsed since the end of the underlying~~
 34 ~~revocation period for a violation of [section 321J.2](#).~~

35 ~~3.~~ 2. Temporary restricted license revocations. In addition

1 to other penalties provided by law, a person's temporary
2 restricted license shall be revoked if the person is required
3 to install an ignition interlock device and the person does any
4 of the following:

5 *a.* Operates a motor vehicle which does not have an approved
6 ignition interlock device.

7 *b.* Tamper with or circumvents an ignition interlock device.

8 ~~4.~~ 3. Prohibited motor vehicle operation.

9 *a.* A person holding a temporary restricted license issued
10 by the department under [this section](#) shall not operate a
11 commercial motor vehicle on a highway if a commercial driver's
12 license or commercial learner's permit is required for the
13 person's operation of the commercial motor vehicle.

14 ~~5.~~ *b.* A person holding a temporary restricted license
15 issued by the department under [this chapter](#) shall be prohibited
16 from operating a school bus.

17 ~~6.~~ 4. Department discretion.

18 *a.* Notwithstanding any provision of [this chapter](#) to the
19 contrary, the department may issue a temporary restricted
20 license to a person otherwise eligible for a temporary
21 restricted license under [this section](#), whose period of
22 revocation under [this chapter](#) has expired, but who has not met
23 all requirements for reinstatement of the person's driver's
24 license or nonresident operating privileges.

25 *b.* Notwithstanding any provision of this chapter to the
26 contrary, the department may issue a temporary restricted
27 license to a person eligible for a temporary restricted
28 license under this section if the person is also eligible for a
29 temporary restricted license under section 321.215, provided
30 the requirements of this section and section 321.215 are
31 satisfied.

32 5. Installation of ignition interlock devices. The
33 department shall require a person to install an ignition
34 interlock device on all motor vehicles owned or operated
35 by the person if the person seeks a temporary restricted

1 license following a revocation under this chapter, subject
2 to subsections 6 and 7. However, if the person has had no
3 previous conviction or revocation under this chapter, the
4 department shall require the person to install an ignition
5 interlock device only on all motor vehicles operated by the
6 person, subject to subsections 6 and 7.

7 6. *Employment duty exception.*

8 a. A person with a valid temporary restricted license who
9 is subject to the ignition interlock device requirements under
10 this section may operate the person's employer's motor vehicle
11 that is not equipped with an ignition interlock device if all
12 of the following conditions are met:

13 (1) The operation does not exceed two hours in any
14 twenty-four-hour period.

15 (2) Prior to a person operating a motor vehicle within
16 the scope of the person's employment, the person's employer
17 completes and submits an affidavit to the department detailing
18 the employment duties that require the person to operate a
19 motor vehicle within the scope of the person's employment and
20 stating that the employer will ensure that the person does not
21 operate the employer's motor vehicle for more than two hours
22 during any twenty-four-hour period.

23 b. The person shall not be eligible to operate an employer's
24 motor vehicle if any of the following apply:

25 (1) The person has more than a twenty percent ownership
26 interest in the employer's entity or the person's family
27 member has more than a fifty percent ownership interest in the
28 employer's entity.

29 (2) The person operates the employer's motor vehicle to
30 commute to and from the place of employment.

31 (3) The person operates the employer's motor vehicle to the
32 person's residence, even if the residence is located along a
33 route on which the person is allowed to operate the employer's
34 motor vehicle as part of the person's employment duties.

35 7. *Compliance-based removal.*

1 a. (1) For a person convicted of a third or subsequent
2 offense for violating section 321J.2, the department shall
3 extend an ignition interlock device requirement by sixty days
4 if six or more of the following occur during the last sixty
5 days of the person's ignition interlock device requirement
6 period, excluding any sixty-day extensions required under this
7 paragraph:

8 (a) Any attempt to start the vehicle with a breath alcohol
9 concentration of .04 or more unless a subsequent test performed
10 within ten minutes registers a breath alcohol concentration
11 lower than .04 and the digital image confirms the same person
12 provided both samples.

13 (b) Any failure to submit a breath sample as required
14 by the device unless a review of the corresponding digital
15 image confirms that the vehicle was not operated by the person
16 subject to the device requirement at the time of the failure.

17 (c) Any failure to pass a retest with a breath alcohol
18 concentration of .025 or lower unless a subsequent test
19 performed within ten minutes registers a breath alcohol
20 concentration lower than .025, and the corresponding digital
21 image confirms the same person provided both samples.

22 (2) The department shall extend the person's ignition
23 interlock device requirement period for an additional sixty
24 days if three or more of the actions listed in subparagraph (1)
25 occur during the initial sixty-day extension or a subsequent
26 sixty-day extension.

27 (3) If a person is subject to four or more extensions under
28 this paragraph, the department shall require the person to
29 complete a substance abuse treatment program prior to issuing
30 a driver's license other than a temporary restricted license
31 to the person.

32 b. A court may impose a compliance-based removal period of
33 thirty or sixty days for a person whose driver's license was
34 revoked under section 321J.4, subsection 1, and the results of
35 an analysis of a specimen of the person's blood, breath, or

1 urine withdrawn in accordance with this chapter exceeded an
2 alcohol concentration of .19, or for a person whose license was
3 revoked under section 321J.4, subsection 2. If a court imposes
4 a compliance-based removal period, all of the following apply:

5 (1) If a sixty-day period is ordered, the compliance-based
6 removal period shall be extended by sixty days if six or more
7 actions occur as described in paragraph "a".

8 (2) If a thirty-day period is ordered, the compliance-based
9 removal period shall be extended by thirty days if three or
10 more actions occur as described in paragraph "a".

11 (3) If the compliance-based removal period is extended four
12 or more times under this paragraph, the department shall notify
13 the court, and the court may require the person to complete a
14 substance abuse treatment program.

15 c. The department shall verify a person's successful
16 completion of the compliance-based removal requirements prior
17 to issuing to the person a driver's license other than a
18 temporary restricted license.

19 d. An approved ignition interlock device manufacturer shall
20 submit to the department a report on a person's compliance when
21 the required compliance-based removal period ends, no less than
22 seven days after the period ends.

23 e. The department shall adopt rules pursuant to chapter 17A
24 to administer this subsection. The rules shall include all of
25 the following:

26 (1) The method to ensure ignition interlock device
27 manufacturers submit the required report at the end of a
28 person's required compliance period.

29 (2) The method by which a report must be sent detailing any
30 occurrences.

31 (3) The method by which the department verifies whether
32 to extend the ignition interlock device requirement period or
33 provide a person with a certificate of completion which shall
34 enable the person to remove the ignition interlock device.

35 8. Ignition interlock device specifications.

1 a. An ignition interlock device installed on or after the
2 effective date of this Act must be equipped with a camera
3 that is only capable of taking a still image photograph when
4 a breath specimen is requested by the device, when a breath
5 specimen is provided, and when a failure to provide a breath
6 specimen occurs.

7 b. The commissioner of public safety shall adopt rules to
8 approve certain ignition interlock devices. The rules shall
9 include but are not limited to all of the following:

10 (1) The means of installation of the devices.

11 (2) The camera and photograph requirements.

12 (3) The level of alcohol concentration beyond which an
13 ignition interlock device will not allow operation of the motor
14 vehicle on which it is installed.

15 ~~7. 9. *Tampering.* A person who tampers with or circumvents~~
16 ~~an ignition interlock device installed as required in this~~
17 ~~chapter and while the requirement for the ignition interlock~~
18 ~~device is in effect commits a serious misdemeanor.~~

19 ~~8. Notwithstanding any provision of [this chapter](#) to the~~
20 ~~contrary, the department may issue a temporary restricted~~
21 ~~license to a person eligible for a temporary restricted~~
22 ~~license under [this section](#) if the person is also eligible for a~~
23 ~~temporary restricted license under [section 321.215](#), provided~~
24 ~~the requirements of [this section](#) and [section 321.215](#) are~~
25 ~~satisfied.~~

26 10. *Penalty.* A person who has a temporary restricted
27 license and who operates a motor vehicle without an ignition
28 interlock device installed, except as provided in section
29 321J.20, subsection 6, shall be subject to a criminal penalty
30 as follows:

31 a. For a first offense, a serious misdemeanor.

32 b. For a second offense, an aggravated misdemeanor and the
33 ignition interlock device requirement shall be extended by six
34 months.

35 c. For a third offense, an aggravated misdemeanor,

1 imprisonment in the county jail for a minimum of forty-eight
2 hours, and the ignition interlock device requirement shall be
3 extended by one year.

4 Sec. 10. Section 321J.21, Code 2022, is amended to read as
5 follows:

6 **321J.21 Driving while license ~~suspended, denied, revoked, or~~**
7 **~~barred.~~**

8 1. A person whose driver's license or nonresident
9 operating privilege has been ~~suspended, denied, revoked,~~
10 ~~or barred~~ due to a first violation of this chapter section
11 321J.2, and who drives a motor vehicle while the license or
12 privilege is ~~suspended, denied, revoked, or barred~~ commits a
13 serious misdemeanor. ~~In addition to any other penalties, the~~
14 ~~punishment imposed for a violation of this subsection shall~~
15 ~~include assessment of a fine of one thousand dollars.~~

16 ~~2. In addition to the fine, the department, upon receiving~~
17 ~~the record of the conviction of a person under this section~~
18 ~~upon a charge of driving a motor vehicle while the license of~~
19 ~~the person was suspended, denied, revoked, or barred shall~~
20 ~~extend the period of suspension, denial, revocation, or bar for~~
21 ~~an additional like period.~~

22 2. A person whose driver's license or nonresident operating
23 privilege has been revoked due to a second violation of section
24 321J.2, and who drives a motor vehicle while the license or
25 privilege is revoked, commits an aggravated misdemeanor and the
26 person shall be imprisoned in the county jail for a minimum of
27 forty-eight hours. In addition to any other penalties, the
28 department shall extend the revocation period for one year.

29 3. A person whose driver's license or nonresident operating
30 privilege has been revoked due to a third violation of section
31 321J.2, and who drives a motor vehicle while the license or
32 privilege is revoked, commits an aggravated misdemeanor and the
33 person shall be imprisoned in the county jail for a minimum of
34 seven days. In addition to any other penalties, the department
35 shall extend the revocation for one year.

1 4. A person whose driver's license or nonresident operating
2 privilege has been revoked due to a fourth or subsequent
3 violation of section 321J.2, and who drives a motor vehicle
4 while the license or privilege is revoked, commits a class
5 "D" felony and the person shall be imprisoned in the county
6 jail for a minimum of thirty days. In addition to any other
7 penalties, the department shall extend the revocation period
8 for two years.

9 5. For a violation of this section, a person shall
10 be required to comply with the ignition interlock device
11 requirements of section 321J.20 for the remaining time the
12 person's operating privilege is revoked, including any required
13 extension of such time, if the person operates a motor vehicle
14 in any of the following conditions:

15 a. While under the influence of an alcoholic beverage or
16 other drug or a combination of such substances.

17 b. While having an alcohol concentration above .00.

18 c. While any amount of a controlled substance is present in
19 the person, as measured in the person's blood or urine.

20 Sec. 11. Section 811.2, subsection 1, Code 2022, is amended
21 by adding the following new paragraph:

22 NEW PARAGRAPH. c. Any bailable defendant who is charged
23 with a third or subsequent offense of operating while
24 intoxicated under section 321J.2, and who is ordered released,
25 shall be required, as a condition of that release, to install
26 an ignition interlock device pursuant to section 321J.20. The
27 defendant shall provide proof to the court within thirty days
28 after being released from custody that the ignition interlock
29 device was properly installed.

30 EXPLANATION

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

33 Under current law, a record for operating while intoxicated
34 (OWI) in violation of Code section 321J.2 is required to be
35 deleted from the department of transportation (DOT) operating

1 records 12 years after the date of conviction or the effective
2 date of a driver's license revocation. Deleted records
3 cannot be considered as a prior conviction for the purpose of
4 determining whether a current OWI violation is considered a
5 second, third, or subsequent offense by a court.

6 This bill prohibits the DOT from deleting any record of a
7 person's conviction or license revocation due to OWI violations
8 while the person is alive. The bill also provides that prior
9 convictions for reckless driving and public intoxication
10 following an OWI arrest is considered a prior OWI conviction.

11 Under current law, a person whose license is revoked for OWI
12 is required to install an ignition interlock device (IID) prior
13 to receiving a temporary restricted license (TRL) from the DOT.
14 The IID must be installed on every vehicle owned or operated
15 by the person. However, if the person has had no previous OWI
16 conviction or revocation, the person must install the IID only
17 on all motor vehicles operated by the person. Current law
18 also requires persons convicted of a second or subsequent OWI
19 offense to install an IID for a minimum of one year prior to
20 being eligible for reinstatement of a driver's license other
21 than a TRL.

22 The bill adds compliance based removal (CBR) provisions
23 to the IID requirements. Under the bill, a person convicted
24 of a third or subsequent OWI is required to complete the CBR
25 requirements. Under CBR, a person's requirement to have an
26 IID installed can be extended if the person violates certain
27 conditions of the IID use requirements. The bill allows a
28 court to extend the IID requirements beyond the maximum time of
29 possible incarceration under CBR if violations occur.

30 The bill adds a requirement that new IIDs contain a camera
31 to take still photographs when the device prompts a person to
32 submit a breath sample. The photos can be used to confirm or
33 dispute a violation.

34 The DOT is required to suspend the registration of any
35 vehicle owned by a person subject to IID requirements who fails

1 to submit proof that an IID was installed on the vehicle.
2 However, a family member of the vehicle owner can submit an
3 affidavit to the DOT to waive the suspension under certain
4 circumstances. If a family member provides an affidavit under
5 the requirements of the bill but then allows the vehicle owner
6 to use the motor vehicle the family member is guilty of a
7 simple misdemeanor. A simple misdemeanor is punishable by
8 confinement for no more than 30 days and a fine of at least \$105
9 but not more than \$855.

10 The bill authorizes a person who is required to install an
11 IID on a vehicle pursuant to Code section 321J.20 to operate an
12 employer's motor vehicle without an IID, if required as part of
13 the person's employment duties, under certain specifications as
14 set forth in the bill.

15 The bill strikes a provision allowing a person whose
16 driver's license has been revoked under Code section 321J.21 to
17 apply to the DOT for a TRL without the requirement of an IID if
18 at least 12 years have elapsed since the end of the underlying
19 revocation period for a violation of Code section 321J.2.

20 The bill creates new criminal offenses for persons who
21 operate a motor vehicle either while revoked or without having
22 an IID installed when required on the motor vehicle. The
23 penalties range from a serious misdemeanor to a class "D"
24 felony. A serious misdemeanor is punishable by confinement
25 for no more than one year and a fine of at least \$430 but not
26 more than \$2,560. An aggravated misdemeanor is punishable
27 by confinement for no more than two years and a fine of at
28 least \$855 but not more than \$8,540. A class "D" felony is
29 punishable by confinement for no more than five years and a
30 fine of at least \$1,025 but not more than \$10,245.

31 The bill adds the requirement to install an IID on every
32 vehicle owned or operated by a person arrested for a third or
33 subsequent OWI offense as a condition of bail. The person is
34 required to provide proof that an IID was properly installed on
35 each required vehicle within 30 days of release.

H.F. 2393

1 The bill makes organizational and conforming changes to Code
2 chapter 321J.