

**Senate File 2082 - Introduced**

SENATE FILE 2082

BY GREEN

**A BILL FOR**

1 An Act relating to implied consent to test specimens of a  
2 person's blood, breath, or urine following a motor vehicle  
3 accident resulting in death, and making penalties applicable.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 321J.5, subsection 1, paragraph b, Code  
2 2026, is amended to read as follows:

3 b. The operator has been involved in a motor vehicle  
4 collision resulting in injury ~~or death~~.

5 Sec. 2. Section 321J.6, subsection 1, paragraph b, Code 2026,  
6 is amended to read as follows:

7 b. The person has been involved in a motor vehicle accident  
8 or collision resulting in personal injury ~~or death~~.

9 Sec. 3. Section 321J.6, Code 2026, is amended by adding the  
10 following new subsection:

11 NEW SUBSECTION. 1A. A person who operates a motor vehicle  
12 in this state and who was involved in a motor vehicle accident  
13 or collision resulting in death is deemed to have given consent  
14 to the withdrawal of specimens of the person's blood, breath, or  
15 urine and to a chemical test or tests of the specimens for the  
16 purpose of determining the alcohol concentration or presence of a  
17 controlled substance or other drugs, subject to this section.

18 Sec. 4. Section 321J.9, subsection 1, unnumbered paragraph 1,  
19 Code 2026, is amended to read as follows:

20 If a person refuses to submit to the chemical testing, a test  
21 shall not be given, but the department, upon the receipt of the  
22 peace officer's certification, subject to penalty for perjury,  
23 that the officer had reasonable grounds to believe the person  
24 to have been operating a motor vehicle in violation of section  
25 321J.2 or 321J.2A, if applicable, that specified conditions  
26 existed for chemical testing pursuant to section 321J.6, and  
27 that the person refused to submit to the chemical testing,  
28 shall revoke the person's driver's license and any nonresident  
29 operating privilege for the following periods of time:

30 Sec. 5. Section 321J.12, subsection 1, unnumbered paragraph  
31 1, Code 2026, is amended to read as follows:

32 Upon certification, subject to penalty for perjury, by the  
33 peace officer that there existed reasonable grounds to believe  
34 that the person had been operating a motor vehicle in violation  
35 of section 321J.2, if applicable, that there existed one or

1 more of the necessary conditions for chemical testing described  
2 in section 321J.6, subsection 1 or 1A, and that the person  
3 submitted to chemical testing and the test results indicated the  
4 presence of a controlled substance or other drug, or an alcohol  
5 concentration equal to or in excess of the level prohibited by  
6 section 321J.2, or a combination of alcohol and another drug  
7 in violation of section 321J.2, the department shall revoke the  
8 person's driver's license or nonresident operating privilege for  
9 the following periods of time:

10 Sec. 6. Section 321J.12, subsection 5, Code 2026, is amended  
11 to read as follows:

12 5. Upon certification, subject to penalty of perjury, by the  
13 peace officer that there existed reasonable grounds to believe  
14 that the person had been operating a motor vehicle in violation  
15 of section 321J.2A, if applicable, that there existed one or more  
16 of the necessary conditions for chemical testing described in  
17 section 321J.6, subsection 1 or 1A, and that the person submitted  
18 to chemical testing and the test results indicated an alcohol  
19 concentration of .02 or more but less than .08, the department  
20 shall revoke the person's driver's license or operating privilege  
21 for a period of sixty days if the person has had no previous  
22 revocation under this chapter, and for a period of ninety days if  
23 the person has had a previous revocation under this chapter.

24 Sec. 7. Section 321J.13, subsection 2, unnumbered paragraph  
25 1, Code 2026, is amended to read as follows:

26 The department shall grant the person an opportunity to be  
27 heard within forty-five days of receipt of a request for a  
28 hearing if the request is made not later than ten days after  
29 receipt of notice of revocation served pursuant to section 321J.9  
30 or 321J.12. The hearing shall be before the department in the  
31 county where the alleged events occurred, unless the director  
32 and the person agree that the hearing may be held in some other  
33 county, or the hearing may be held by telephone conference at  
34 the discretion of the agency conducting the hearing. The hearing  
35 may be recorded and its scope shall be limited to the issues of

1 whether a peace officer had reasonable grounds to believe that  
2 the person was operating a motor vehicle in violation of section  
3 321J.2 or 321J.2A, if required, and one or more of the following:

4 Sec. 8. Section 321J.13, subsection 6, paragraph b,  
5 subparagraph (1), Code 2026, is amended to read as follows:

6 (1) That the peace officer did not have reasonable grounds  
7 to believe that a violation of section 321J.2 or 321J.2A had  
8 occurred to support a request for or to administer a chemical  
9 test, if required under the circumstances.

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EXPLANATION

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The inclusion of this explanation does not constitute agreement with

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the explanation's substance by the members of the general assembly.

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Under current law, a person who operates a motor vehicle  
14 under circumstances which give reasonable grounds to believe  
15 that the person was operating the motor vehicle while under  
16 the influence of alcohol or a drug is deemed to have given  
17 consent to the withdrawal of a specimen of the person's blood,  
18 breath, or urine and to chemical tests of the specimen for the  
19 purpose of determining the alcohol concentration or presence  
20 of drugs (implied consent). The withdrawal of a specimen and  
21 the tests must be administered at the written request of a  
22 peace officer having reasonable grounds to believe that the  
23 person was operating a motor vehicle in violation of Code  
24 section 321J.2 or 321J.2A (operating while intoxicated), and if  
25 certain conditions exist, including when the person has been  
26 involved in a motor vehicle accident or collision resulting in  
27 personal injury or death. A refusal to submit to chemical  
28 testing when required under implied consent subjects a person to  
29 administrative penalties, including but not limited to a driver's  
30 license revocation for at least one year for a first revocation  
31 and two years for a subsequent revocation.

32

This bill implements implied consent to test persons who were  
33 operating a motor vehicle and were involved in a motor vehicle  
34 accident or collision resulting in death without the requirement  
35 that a peace officer have reasonable grounds to believe that the

1 person was operating a motor vehicle in violation of Code section  
2 321J.2 or 321J.2A, and makes conforming changes. Therefore,  
3 under the bill, such persons are subject to the existing  
4 administrative penalties under law for submitting or refusing to  
5 submit to a test when required under implied consent.

6 The bill does not amend the authorizations under current  
7 law to test persons involved in a motor vehicle accident or  
8 collision resulting in death despite a refusal to submit to  
9 a test under implied consent, including Code section 321J.10  
10 (tests pursuant to warrants), which requires reasonable grounds  
11 to believe the person was operating while intoxicated at the time  
12 of the accident, and Code section 321J.10A (blood, breath, or  
13 urine specimen withdrawal without a warrant), which requires the  
14 person to be under arrest for an offense arising out of acts  
15 alleged to have been committed while the person was operating  
16 while intoxicated, in addition to other circumstances.