

Senate File 442 - Reprinted

SENATE FILE 442
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SSB 1090)

(As Amended and Passed by the Senate March 25, 2019)

A BILL FOR

1 An Act relating to authorized emergency vehicles, and making
2 penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.231, subsection 1, Code 2019, is
2 amended to read as follows:

3 1. The driver of an authorized emergency vehicle, when
4 responding to an emergency call or when in the pursuit of an
5 actual or suspected perpetrator of a felony or misdemeanor, or
6 in response to an incident dangerous to the public, or when
7 responding to but not upon returning from a fire alarm, may
8 exercise the privileges set forth in this section.

9 Sec. 2. Section 321.231, subsection 2, Code 2019, is amended
10 by adding the following new paragraphs:

11 NEW PARAGRAPH. c. Drive the vehicle on the shoulder or
12 median of a highway.

13 NEW PARAGRAPH. d. Disregard laws or regulations governing
14 turning the vehicle in specified directions.

15 NEW PARAGRAPH. e. Disregard laws or regulations governing
16 overtaking or passing other motorists.

17 Sec. 3. Section 321.231, subsections 3 and 4, Code 2019, are
18 amended to read as follows:

19 3. The driver of a an official fire department vehicle,
20 police vehicle, rescue vehicle, ~~or~~ ambulance, or emergency
21 medical services vehicle, or a peace officer riding a police
22 bicycle in the line of duty, may do any of the following:

23 a. Proceed past a red or stop signal or stop sign, but only
24 ~~after slowing down as may be~~ at a speed deemed necessary for
25 safe operation by the driver based on information known to the
26 driver at the time.

27 b. Exceed the maximum speed limits so long as the driver
28 does not recklessly endanger life or property.

29 4. a. The exemptions granted to the driver of an authorized
30 emergency vehicle under subsection 2 and to a the driver of
31 an official fire department vehicle, police vehicle, rescue
32 vehicle, ~~or~~ ambulance, or emergency medical services vehicle as
33 provided in subsection 3 shall apply only when such vehicle is
34 making use of an audible ~~signaling~~ warning device meeting the
35 requirements of section 321.433 or a visual signaling device,

1 ~~except that use of an audible or visual signaling device shall~~
2 ~~not be required when exercising the~~ authorized under this
3 chapter.

4 b. The exemption granted under subsection 3, paragraph
5 "b", when the vehicle is operated by a peace officer shall be
6 granted to a peace officer or reserve peace officer operating
7 an authorized emergency vehicle without using an audible
8 warning device or visual signaling device if such action does
9 not recklessly endanger the life of the officer or the vehicle,
10 and if the officer is pursuing a suspected violator of the
11 speed restrictions imposed by or pursuant to this chapter
12 for the purpose of determining the speed of travel of such
13 suspected violator, or if the officer reasonably believes based
14 on the facts and circumstances at the time that a suspected
15 violator's knowledge of the officer's proximity may cause the
16 suspected violator to destroy evidence of a suspected felony
17 or aggravated misdemeanor, evade apprehension, or endanger the
18 public or the officer.

19 c. The exemption granted under subsection 3, paragraph
20 "b", shall be granted to the driver of an authorized emergency
21 vehicle transporting a patient to a hospital while using
22 a visual signaling device but without using an audible
23 warning device if a certified emergency medical care provider
24 reasonably believes the patient's condition warrants limited
25 use of the vehicle's audible warning device, provided the
26 driver activates the vehicle's audible warning device when
27 necessary to warn motorists or pedestrians of the vehicle's
28 approach, or when approaching an intersection.

29 Sec. 4. Section 321.231, Code 2019, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 3A. A peace officer operating an authorized
32 emergency vehicle may execute a lawful intervention technique
33 if such execution is reasonable under the circumstances based
34 on the information available to the officer at the time, and
35 the officer has completed a training course approved by the

1 Iowa law enforcement academy that instructs participants in
2 the proper execution of lawful intervention techniques. For
3 purposes of this subsection, "*lawful intervention technique*"
4 means a method by which a peace officer operating a motor
5 vehicle in pursuit of a fleeing motor vehicle causes or
6 attempts to cause the fleeing motor vehicle to stop.

7 Sec. 5. NEW SECTION. 321.231A **Authorized emergency vehicles**
8 **— parades and events.**

9 1. The driver of an authorized emergency vehicle may operate
10 the vehicle as part of an official governmental event for the
11 purposes of the safety and security of an elected official,
12 candidate for public office, or the public, or as part of a
13 parade or other public service event if the parade or event
14 is approved by the state or a municipality, as defined in
15 section 670.1, and notice of the parade or event is publicly
16 disseminated by the state or municipality in the area where the
17 parade or event will occur at least five days prior to the date
18 on which the parade or event will occur.

19 2. Notwithstanding any provision of law to the contrary, an
20 authorized emergency vehicle operating in a parade or event may
21 display any of the vehicle's lighting devices. This subsection
22 shall not be construed to exempt the driver of the authorized
23 emergency vehicle from any duty to operate the vehicle with due
24 regard for the safety of all persons.

25 Sec. 6. NEW SECTION. 321.231B **Authorized emergency vehicles**
26 **— immunity from liability.**

27 1. The following shall not be liable for any injury or loss
28 arising from the operation of an authorized emergency vehicle
29 in response to an emergency call or to an incident dangerous to
30 the public unless the driver operates the authorized emergency
31 vehicle with reckless disregard for the safety of persons or
32 property:

33 a. A fire fighter operating the authorized emergency
34 vehicle who is certified by the fire service training bureau,
35 as described in section 100B.6, as a fire apparatus driver or

1 operator and who has completed an emergency vehicle operations
2 course and any applicable continuing education requirements
3 established or approved by the fire service training bureau.

4 *b.* An emergency medical care provider, as defined in
5 section 147A.1, operating the authorized emergency vehicle who
6 has completed an emergency vehicle operations course and any
7 applicable continuing education requirements established or
8 approved by the department of public health.

9 *c.* A peace officer, as defined in section 801.4, or a
10 reserve peace officer, as defined in section 80D.1A, operating
11 the authorized emergency vehicle who has completed an emergency
12 vehicle operations course and any applicable continuing
13 education requirements established or approved by the Iowa law
14 enforcement academy.

15 *d.* Any entity on whose behalf the fire fighter, emergency
16 medical care provider, peace officer, or reserve peace officer
17 is operating the authorized emergency vehicle.

18 2. The protections from liability set forth in subsection
19 1 apply only when, in response to an emergency call or to an
20 incident dangerous to the public, the driver operating the
21 authorized emergency vehicle is utilizing a siren meeting the
22 requirements of section 321.433 or flashing blue and red lights
23 authorized under this chapter. The protections from liability
24 provided by subsection 1 apply in addition to any other defense
25 to liability provided by law.

26 3. *a.* The driver of an authorized emergency vehicle,
27 and any entity on whose behalf the driver is operating the
28 authorized emergency vehicle, shall not be liable for any
29 injury or loss arising from the operation of the authorized
30 emergency vehicle unless reckless disregard for the safety of
31 persons or property is proven by clear and convincing evidence.

32 *b.* If a person brings a tort claim against the driver of
33 an authorized emergency vehicle, a municipality, as defined in
34 section 670.1, this state, or any other entity on whose behalf
35 the driver is operating the authorized emergency vehicle, for

1 any injury or loss arising from the operation of the authorized
2 emergency vehicle, the court shall determine, on motion by any
3 party or on its own motion, whether the person has presented
4 sufficient, admissible evidence to support a prima facie
5 finding of reckless disregard for the safety of persons or
6 property, before the matter proceeds to trial.

7 Sec. 7. Section 321.324A, Code 2019, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 4. *a.* The driver of an authorized
10 emergency vehicle may operate the vehicle as part of a funeral
11 procession if approved by each municipality, as defined in
12 section 670.1, in which the funeral procession occurs.

13 *b.* Notwithstanding any provision of law to the contrary, an
14 authorized emergency vehicle operating in a funeral procession
15 may display any of the vehicle's lighting devices. This
16 subsection shall not be construed to exempt the driver of the
17 authorized emergency vehicle from any duty to operate the
18 vehicle with due regard for the safety of all persons.

19 Sec. 8. Section 321.433, Code 2019, is amended to read as
20 follows:

21 **321.433 Sirens, whistles, air horns, and bells prohibited.**

22 1. A vehicle shall not be equipped with and a person shall
23 not use upon a vehicle any siren, whistle, or bell, except as
24 otherwise permitted in this section or any other provision of
25 law.

26 2. It is permissible but not required that any commercial
27 vehicle be equipped with a theft alarm signal device which is
28 so arranged that it cannot be used by the driver as an ordinary
29 warning signal.

30 3. Any authorized emergency vehicle may be equipped with
31 a siren, whistle, air horn, or bell capable of emitting sound
32 audible under normal conditions from a distance of not less
33 than five hundred feet, ~~but the~~.

34 4. An authorized emergency medical services program, fire
35 department, or law enforcement agency may equip one or more

1 vehicles with an air horn.

2 5. An official fire department vehicle, emergency medical
3 services program vehicle, or law enforcement vehicle owned
4 by the state, a municipality, as defined in section 670.1,
5 or a corporation providing emergency medical services to
6 a municipality pursuant to a written contract, that was
7 purchased, delivered, or refurbished on or after July 1,
8 2019, excluding an all-terrain vehicle or a special service
9 vehicle, shall be equipped with a two-hundred-watt electric
10 or electronic siren capable of emitting at least two distinct
11 siren tones, and one or more compatible siren speakers.

12 6. An authorized emergency vehicle's siren, whistle, or
13 bell shall not be used except when the vehicle is operated in
14 response to an emergency call or an incident dangerous to the
15 public, in a parade or designated public service event, for a
16 demonstration, for maintenance, or in the immediate pursuit of
17 an actual or suspected violator of the law, and the driver of
18 the vehicle shall sound the siren, whistle, or bell when the
19 driver reasonably believes necessary to warn pedestrians and
20 other drivers of the approach of the vehicle.

21 7. For purposes of this section:

22 a. "Electric siren" means an audible warning device that
23 produces sound using an electric motor with an attached
24 rotating slotted or perforated disc.

25 b. "Electronic siren" means an audible warning device
26 that produces sound electronically using amplifiers and
27 electromagnetic speakers.

28 Sec. 9. Section 321.451, subsection 1, Code 2019, is amended
29 by adding the following new paragraphs:

30 NEW PARAGRAPH. g. A vehicle owned by a certified chief or
31 certified chief officer of a volunteer fire department, a fire
32 department comprised of a combination of volunteer and paid
33 members, or a nonprofit corporation that delivers emergency
34 services on behalf of a municipality, as defined in section
35 670.1, pursuant to a written contract, if the application for

1 a certificate of designation is requested by the chief of the
2 fire department. However, the department shall not approve
3 an application received pursuant to this paragraph unless
4 the owner of the vehicle has completed an emergency vehicle
5 operations course approved by the fire service training bureau,
6 as described in section 100B.6, provided proof of certification
7 as a fire officer, and provided proof of financial liability
8 coverage or risk pool coverage.

9 NEW PARAGRAPH. *h.* A vehicle owned by a chief or medical
10 director of an authorized emergency medical service provider,
11 if the application for a certificate of designation is
12 requested by the chief of the authorized emergency medical
13 service provider. However, the department shall not approve
14 an application received pursuant to this paragraph unless
15 the owner of the vehicle has completed an emergency vehicle
16 operations course approved by the department of public health,
17 and provided proof of financial liability coverage or risk pool
18 coverage.

19 Sec. 10. Section 321.451, Code 2019, is amended by adding
20 the following new subsections:

21 NEW SUBSECTION. 4. A public or private employer shall
22 not require an employee or volunteer to apply for or maintain
23 a certificate of designation pursuant to this section as a
24 condition of employment or of permitting the person to continue
25 to volunteer. A person shall not be required to operate or
26 use a vehicle designated as an authorized emergency vehicle
27 pursuant to this section.

28 NEW SUBSECTION. 5. This section shall not be construed
29 to exempt the state or a municipality, as defined in section
30 670.1, from any duty to purchase, equip, maintain, or otherwise
31 provide authorized emergency vehicles to meet any requirement
32 to provide public services, including law enforcement, fire
33 protection, rescue, or emergency medical services.