

Sec. 37. Section 803.3, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 6. a. If a person is charged with a violation of the tax laws arising out of individual tax liability, venue is in the county of residence of the person charged with the offense, unless the person is a nonresident of this state or the residence of the person cannot be established, in which event venue is in Polk county.

b. If a person is charged with a violation of the tax laws arising out of a business, venue is in any county where business was conducted. If a specific county cannot be established as a situs, venue is in Polk county.

c. If a person is charged with a violation of section 453B.12, venue is in the county of the residence of the person charged with the offense or the county in which the drugs were found.

d. If a person is charged with a violation of the tax laws in which venue is set under multiple provisions of this section, venue is in any county in which one of the charges may be prosecuted.

Sec. 38. 1998 Iowa Acts, chapter 1194, section 38, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Notwithstanding subsections 1 through 8, a municipal utility shall report to the director its centrally assessed property tax allocated to electric service and its centrally assessed property tax allocated to natural gas service for the 1997 assessment year only.

Sec. 39. Section 427A.14, Code 1999, is repealed.

Sec. 40. **EFFECTIVE AND APPLICABILITY DATES.**

1. Section 4 of this Act, amending section 422.32, is retroactive to January 1, 1999, for tax years beginning on or after that date.

2. Sections 21 through 29, 31, and 38 of this Act, amending sections related to the replacement taxes on electricity and natural gas providers, take effect July 1, 1999.

3. Section 30 of this Act, establishing new section 437A.17A, being deemed of immediate importance, takes effect upon enactment.

4. Sections 32 through 34 of this Act, amending sections 450.1, 450.27, and 450.37, take effect July 1, 1999, for estates of decedents dying on or after that date.

5. Except as otherwise provided in this section, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 20, 1999

CHAPTER 153

MISDEMEANOR CLASSIFICATIONS AND PENALTIES — OWI REVOCATIONS

S.F. 189

AN ACT to change the penalty for and to reclassify certain misdemeanors.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.47, subsection 3, Code 1999, is amended to read as follows:

3. A person who is under legal age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits a simple misdemeanor

punishable by a fine of one hundred dollars for the first offense. A second or subsequent offense shall be a serious simple misdemeanor punishable by a fine of two hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year. The court may, in its discretion, order the person who is under legal age to perform community service work under section 909.3A, of an equivalent value to the fine imposed under this section. However, if the person who commits the violation of this section is under the age of eighteen, the matter shall be disposed of in the manner provided in chapter 232.

Sec. 2. Section 321.218, subsection 1, Code 1999, is amended to read as follows:

1. A person whose driver's license or operating privilege has been denied, canceled, suspended, or revoked as provided in this chapter or as provided in section 252J.8 or section 901.5, subsection 10, and who operates a motor vehicle upon the highways of this state while the license or privilege is denied, canceled, suspended, or revoked, commits a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars nor more than one thousand five hundred dollars.

Sec. 3. Section 321.260, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. A person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes an official traffic-control device, an authorized warning sign or signal or barricade, whether temporary or permanent, a railroad sign or signal, an inscription, shield or insignia on any of such devices, signs, signals, or barricades, or any other part thereof, shall, upon conviction, be guilty of a serious simple misdemeanor and shall be required to make restitution to the affected jurisdiction. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars.

Sec. 4. Section 321.260, subsection 2, Code 1999, is amended to read as follows:

2. It shall be unlawful for any person to have in the person's possession any official traffic-control device except by legal right or authority. Any person convicted of unauthorized possession of any official traffic-control device shall upon conviction be guilty of a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars.

Sec. 5. Section 321A.32, subsection 1, Code 1999, is amended to read as follows:

1. Any person whose license or registration or nonresident's operating privilege has been suspended, denied or revoked under this chapter or continues to remain suspended or revoked under this chapter, and who, during such suspension, denial or revocation, or during such continuing suspension or continuing revocation, drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this chapter, shall be guilty of a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars nor more than one thousand five hundred dollars.

Sec. 6. Section 321J.21, subsection 1, Code 1999, is amended to read as follows:

1. A person whose driver's license or nonresident operating privilege has been suspended, denied, revoked, or barred due to a violation of this chapter and who drives a motor vehicle while the license or privilege is suspended, denied, revoked, or barred commits a serious misdemeanor, ~~punishable with a mandatory fine of one thousand dollars.~~ In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of one thousand dollars.

Sec. 7. Section 331.302, subsection 2, Code 1999, is amended to read as follows:

2. A county shall not provide a penalty in excess of a ~~one~~ two hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. The criminal penalty surcharge required by section 911.2 shall be added to a county fine and is not a part of the county's penalty.

Sec. 8. Section 331.302, subsection 4A, paragraph a, subparagraph (2), Code 1999, is amended to read as follows:

(2) A portion of the Code of Iowa may be adopted by reference only if the criminal penalty provided by the law adopted does not exceed thirty days' imprisonment or a ~~one~~ two hundred dollar fine.

Sec. 9. Section 364.3, subsection 2, Code 1999, is amended to read as follows:

2. A city shall not provide a penalty in excess of a ~~one~~ two hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of all fines collected by cities shall be deposited in the account established in section 602.8108. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city. The criminal penalty surcharge required by section 911.2 shall be added to a city fine and is not a part of the city's penalty.

Sec. 10. Section 461A.42, subsection 2, Code 1999, is amended to read as follows:

2. The use of fireworks, as defined in section 727.2, in state parks and preserves is prohibited except as authorized by a permit issued by the department. The commission shall establish, by rule adopted pursuant to chapter 17A, a fireworks permit system which authorizes the issuance of a limited number of permits to qualified persons to use or display fireworks in selected state parks and preserves. A person violating this subsection is guilty of a ~~serious~~ simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. The court ~~may~~ shall order restitution ~~for if any~~ for damages ~~were~~ caused by the violation which may include, but is not limited to, community service. ~~The court may also require that the violator provide proof of restitution.~~

Sec. 11. Section 714.2, subsections 4 and 5, Code 1999, are amended to read as follows:

4. The theft of property exceeding ~~one~~ two hundred dollars in value but not exceeding five hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a serious misdemeanor.

5. The theft of property not exceeding ~~one~~ two hundred dollars in value is theft in the fifth degree. Theft in the fifth degree is a simple misdemeanor.

Sec. 12. Section 714.12, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Fraudulent practice in the fourth degree is a fraudulent practice where the amount of money or value of property or services involved exceeds ~~one~~ two hundred dollars but does not exceed five hundred dollars.

Sec. 13. Section 714.13, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Fraudulent practice in the fifth degree is a fraudulent practice where the amount of money or value of property or services involved does not exceed ~~one~~ two hundred dollars.

Sec. 14. Section 716.6, Code 1999, is amended to read as follows:

716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

Criminal mischief is criminal mischief in the fourth degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds ~~one~~ two hundred dollars, but does not exceed five hundred dollars. Criminal mischief in the fourth degree is a serious misdemeanor. All criminal mischief which is not criminal mischief in

the first degree, second degree, third degree, or fourth degree is criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a simple misdemeanor.

Sec. 15. Section 716.8, subsection 2, Code 1999, is amended to read as follows:

2. Any person committing a trespass as defined in section 716.7 which results in injury to any person or damage in an amount more than ~~one~~ two hundred dollars to anything, animate or inanimate, located thereon or therein commits a serious misdemeanor.

Sec. 16. Section 716.8, subsection 4, Code 1999, is amended to read as follows:

4. A person committing a trespass as defined in section 716.7 with the intent to commit a hate crime which results in injury to any person or damage in an amount more than ~~one~~ two hundred dollars to anything, animate or inanimate, located thereon or therein commits an aggravated misdemeanor.

Sec. 17. Section 716A.7, Code 1999, is amended to read as follows:

716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

Computer damage is computer damage in the fourth degree when the damage results in a loss of property or services of more than ~~one~~ two hundred dollars but not more than five hundred dollars. Computer damage in the fourth degree is a serious misdemeanor.

Sec. 18. Section 716A.8, Code 1999, is amended to read as follows:

716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

Computer damage is computer damage in the fifth degree when the damage results in a loss of property or services of not more than ~~one~~ two hundred dollars. Computer damage in the fifth degree is a simple misdemeanor.

Sec. 19. Section 716A.13, Code 1999, is amended to read as follows:

716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

Computer theft is computer theft in the fourth degree when the theft involves or results in a loss of services or property of more than ~~one~~ two hundred dollars but not more than five hundred dollars. Computer theft in the fourth degree is a serious misdemeanor.

Sec. 20. Section 716A.14, Code 1999, is amended to read as follows:

716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

Computer theft is computer theft in the fifth degree when the theft involves or results in a loss of services or property of not more than ~~one~~ two hundred dollars. Computer theft in the fifth degree is a simple misdemeanor.

Sec. 21. Section 719.1, subsection 1, Code 1999, is amended to read as follows:

1. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a serious simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor. If a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits a class "D" felony.

Sec. 22. Section 727.2, unnumbered paragraph 2, Code 1999, is amended to read as follows:

A person, firm, copartnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any fireworks, commits a ~~serious~~ simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this section shall include assessment of a fine of not less than two hundred fifty dollars. However, the council of a city or a county board of supervisors may, upon application in writing, grant a permit for the display of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the city or the county board of supervisors when the fireworks display will be handled by a competent operator, but no such permit shall be required for the display of fireworks at the Iowa state fairgrounds by the Iowa state fair board, at incorporated county fairs, or at district fairs receiving state aid. Sales of fireworks for such display may be made for that purpose only.

Sec. 23. Section 730.4, subsection 6, Code 1999, is amended to read as follows:

6. A person who violates this section commits a ~~serious~~ simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this section shall include assessment of a fine of not less than two hundred fifty dollars.

Sec. 24. Section 903.1, subsection 1, paragraph a, Code 1999, is amended to read as follows:

a. For a simple misdemeanor, ~~either imprisonment not to exceed thirty days, or there shall be a fine of at least fifty dollars but not to exceed one five hundred dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.~~

Sec. 25. THIRD OFFENSE OWI REVOCATIONS.

1. When revoking a defendant's driver's license under section 321J.4, the court shall not consider a conviction under section 321J.2 which occurred on or prior to June 30, 1991, for the purpose of determining whether a conviction is a third or subsequent offense under section 321J.2. If a person whose license was revoked under section 321J.4, subsection 4, for three violations of section 321J.2, one of which occurred on or prior to June 30, 1991, the person may apply for reinstatement of the person's driving privileges and the court shall reinstate those privileges two years after the date of the order for revocation.

2. a. If a defendant's driver's license is revoked for a third or subsequent violation of section 321J.2 and one or more of the violations which resulted in the revocation occurred before June 30, 1991, the person shall be permitted to apply to the court for restoration of the defendant's driving privileges. The application may be granted only if all of the following are shown by the defendant by a preponderance of the evidence:

(1) The defendant has completed an evaluation and, if recommended by the evaluation, a program of treatment for chemical dependency and is recovering, or has substantially recovered, from that dependency on or tendency to abuse alcohol or drugs.

(2) The defendant has not been convicted, since the date of the revocation order, of any subsequent violations of section 321J.2 or 123.46, or any comparable city or county ordinance, and the defendant has not, since the date of the revocation order, submitted to a chemical test under this chapter that indicated an alcohol concentration as defined in section 321J.1 of .10 or more, or refused to submit to chemical testing under this chapter.

(3) The defendant has abstained from the excessive consumption of alcoholic beverages and the consumption of controlled substances, except at the direction of a licensed physician or pursuant to a valid prescription.

(4) The defendant's motor vehicle license is not currently subject to suspension or revocation for any other reason.

b. The court shall forward to the department a record of any application submitted under paragraph "a" and the results of the court's disposition of the application.