

CHAPTER 60

OPERATING WHILE INTOXICATED REVISIONS

H.F. 65

†AN ACT relating to motor vehicle operating while intoxicated offenses.

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

Section 1. Section 321J.2, subsection 1, paragraph b, Code 2003, is amended to read as follows:

b. While having an alcohol concentration of ~~.10~~ .08 or more.

Sec. 2. Section 321J.2, subsection 2, paragraph a, subparagraph (3), Code 2003, is amended to read as follows:

(3) Revocation of the person's driver's license pursuant to section 321J.4, subsection 1, section 321J.9, or section 321J.12, subsection 2, which includes a minimum revocation period of one hundred eighty days, ~~including a minimum period of ineligibility for a temporary restricted license of thirty days~~, and may involve a revocation period of one year. A revocation under section 321J.9 includes a minimum period of ineligibility for a temporary restricted license of ninety days.

(a) A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

(b) A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.¹

Sec. 3. Section 321J.4, subsections 1 and 3, Code 2003, are amended to read as follows:

1. If a defendant is convicted of a violation of section 321J.2 and the defendant's driver's license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 for the occurrence from which the arrest arose, the department shall revoke the defendant's driver's license or nonresident operating privilege for one hundred eighty days if the defendant has had no previous conviction or revocation under this chapter. The defendant shall not be eligible for any temporary restricted license ~~for at least thirty days after the effective date of the revocation if a test was obtained and for at least ninety days if a test was refused under section 321J.9.~~

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

¹ See chapter 179, §120 herein

resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.²

c. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of revocation.

3. If the court defers judgment pursuant to section 907.3 for a violation of section 321J.2, and if the defendant's driver's license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12, or has not otherwise been revoked for the occurrence from which the arrest arose, the department shall revoke the defendant's driver's license or nonresident operating privilege for a period of not less than thirty days nor more than ninety days. The defendant shall not be eligible for any temporary restricted license for at least ~~thirty days after the effective date of the revocation if a test was obtained~~ and for at least ninety days if a test was refused.

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.³

c. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

Sec. 4. Section 321J.6, subsection 1, paragraph g, Code 2003, is amended to read as follows:

g. The preliminary breath screening test was administered and it indicated an alcohol concentration of .02 or more but less than ~~.10~~ .08 and the person is under the age of twenty-one.

Sec. 5. Section 321J.12, subsection 2, Code 2003, is amended to read as follows:

2. a. A person whose driver's license or nonresident operating privileges have been revoked under subsection 1, paragraph "a", whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained and an accident resulting in personal injury or property damage occurred. The defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ordered to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the defendant shall be ordered to install an

² See chapter 179, §121 herein

³ See chapter 179, §122 herein

ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned by the defendant if the defendant seeks a temporary restricted license.⁴

c. If the person is under the age of twenty-one, the person shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

d. A person whose license or privileges have been revoked under subsection 1, paragraph "b", for one year shall not be eligible for any temporary restricted license for one year after the effective date of the revocation, and the person shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

Sec. 6. Section 321J.12, subsection 5, Code 2003, is amended to read as follows:

5. Upon certification, subject to penalty of perjury, by the peace officer that there existed reasonable grounds to believe that the person had been operating a motor vehicle in violation of section 321J.2A, that there existed one or more of the necessary conditions for chemical testing described in section 321J.6, subsection 1, and that the person submitted to chemical testing and the test results indicated an alcohol concentration ~~as defined in section 321J.1~~ of .02 or more but less than ~~10 .08~~, the department shall revoke the person's driver's license or operating privilege for a period of sixty days if the person has had no previous revocation under this chapter, and for a period of ninety days if the person has had a previous revocation under this chapter.

Sec. 7. Section 321J.20, subsection 6, Code 2003, is amended to read as follows:

6. Following certain minimum periods of ineligibility, a temporary restricted license under this section shall not be issued until such time as the applicant installs an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the applicant, in accordance with section 321J.2, 321J.4, 321J.9, or 321J.12. Installation of an ignition interlock device under this section shall be required for the period of time for which the temporary restricted license is issued.

Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved April 24, 2003

CHAPTER 61

COMMUNITY DEVELOPMENT BLOCK GRANTS — ADMINISTRATIVE EXPENSES

H.F. 397

AN ACT relating to community development block grants to the department of economic development and including effective and retroactive applicability dates.

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

Section 1. 2002 Iowa Acts, chapter 1170, section 10, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 17 of this Act, relating to the procedure

⁴ See chapter 179, §123 herein