

CHAPTER 92**RAILROAD CROSSING AND SCHOOL BUS WARNING DEVICE
VIOLATIONS — TRAFFIC CITATIONS**

S.F. 313

AN ACT relating to traffic citations issued for school bus warning device and railroad crossing violations.

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

Section 1. Section 321.344A, Code 2005, is amended to read as follows:

321.344A REPORTED VIOLATIONS FOR FAILURE TO STOP AT A RAILROAD CROSSING.

1. The employee of a railroad who observes a violation of section 321.341, 321.342, 321.343, or 321.344 may prepare a written report on a form provided by the department of public safety indicating that a violation has occurred. The railroad employee may deliver the report not more than seventy-two hours after the violation occurred to a peace officer of the state or a peace officer of the county or municipality in which the violation occurred. The report shall state the time and the location at which the violation occurred and shall include the registration plate number and a description of the vehicle involved in the violation.

2. A peace officer may initiate an investigation not more than seven calendar days after receiving a report of a violation pursuant to this section. The peace officer may request that the owner of the vehicle supply information identifying the driver of the vehicle in accordance with section 321.484.

a. If from the investigation, the peace officer is able to identify the driver of the vehicle and has reasonable cause to believe a violation has occurred, the peace officer shall prepare a uniform traffic citation for the violation and shall serve it personally or by certified mail on the driver of the vehicle.

b. If, from the investigation, the peace officer has reasonable cause to believe that a violation occurred but is unable to identify the driver, the peace officer shall serve a uniform traffic citation for the violation on the owner of the motor vehicle. Notwithstanding section 321.484, in a proceeding where the peace officer who conducted the investigation was not able to identify the driver of the motor vehicle, proof that the motor vehicle described in the uniform traffic citation was used to commit the violation of section 321.341, 321.342, 321.343, or 321.344, together with proof that the defendant named in the citation was the owner of the motor vehicle at the time the violation occurred, constitutes a permissible inference that the owner was the driver who committed the violation.

c. For purposes of this subsection, "owner" means a person who holds the legal title to a motor vehicle; however, if the motor vehicle is the subject of a security agreement with a right of possession in the debtor, the debtor shall be deemed the owner for purposes of this subsection, or if the motor vehicle is leased as defined in section 321.493, the lessee shall be deemed the owner for purposes of this subsection.

Sec. 2. Section 321.372A, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. If, from the investigation, the peace officer has reasonable cause to believe that a violation of section 321.372, subsection 3, occurred but is unable to identify the driver, the peace officer shall serve a uniform traffic citation for the violation to the owner of the motor vehicle. Notwithstanding section 321.484, in a proceeding where the peace officer who conducted the investigation was not able to identify the driver of the motor vehicle, proof that the motor vehicle described in the uniform traffic citation was used to commit the violation of section 321.372, subsection 3, together with proof that the defendant named in the citation was the ~~registered~~ owner of the motor vehicle at the time the violation occurred, constitutes a permissible inference that the ~~registered~~ owner was the driver who committed the violation.

Sec. 3. Section 321.372A, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For purposes of this subsection, “owner” means a person who holds the legal title to a motor vehicle; however, if the motor vehicle is the subject of a security agreement with a right of possession in the debtor, the debtor shall be deemed the owner for purposes of this subsection, or if the motor vehicle is leased as defined in section 321.493, the lessee shall be deemed the owner for purposes of this subsection.

Approved May 3, 2005

CHAPTER 93

REGULATION OF CIGARETTE AND TOBACCO PRODUCT RETAILERS

H.F. 339

AN ACT relating to the regulation of tobacco product retailers, and making penalties applicable.

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

Section 1. Section 453A.3, subsection 1, paragraphs a and b, Code 2005,¹ are amended to read as follows:

a. A person, other than a retailer as defined in section 453A.1 or 453A.42, who violates section 453A.2, subsection 1, is guilty of a simple misdemeanor.

b. An employee of a retailer as defined in section 453A.1 or 453A.42, who violates section 453A.2, subsection 1, commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 3, paragraph “b”.

Sec. 2. Section 453A.5, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The alcoholic beverages division of the department of commerce shall develop a tobacco compliance employee training program not to exceed two hours in length for employees and prospective employees of tobacco retailers, as defined in sections 453A.1 and 453A.42, to inform the employees about state and federal laws and regulations regarding the sale of cigarettes and tobacco products to persons under eighteen years of age and compliance with and the importance of laws regarding the sale of cigarettes and tobacco products to persons under eighteen years of age.

2. The tobacco compliance employee training program shall be made available to employees and prospective employees of tobacco retailers, as defined in sections 453A.1 and 453A.42, at no cost to the employee, the prospective employee, or the retailer, and in a manner which is as convenient and accessible to the extent practicable throughout the state so as to encourage attendance. Contingent upon the availability of specified funds for provision of the program, the division shall schedule the program on at least a monthly basis and the program shall be available at a location in at least a majority of counties.

Sec. 3. Section 453A.22, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For the purposes of this section, “retailer” means retailer as defined in sections 453A.1 and 453A.42 and “retail permit” includes permits issued to retailers under division I or division II of this chapter.

¹ In Code 2005, section 453A.3, subsection 1, contained only paragraphs a and b