

FEB 22 2001

TRANSPORTATION

HOUSE FILE 368  
BY DOTZLER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to recisions of driver's license revocations and  
2 suspensions for operating while intoxicated and other motor  
3 vehicle offenses.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*HF 368*

1 Section 1. Section 321.209, Code 2001, is amended to read  
2 as follows:

3 321.209 MANDATORY REVOCATION.

4 1. The department, upon thirty days' notice and without  
5 preliminary hearing, shall revoke the license or operating  
6 privilege of an operator upon receiving a record of the  
7 operator's conviction for any of the following offenses, when  
8 such conviction has become final:

9 ~~1-~~ a. Manslaughter resulting from the operation of a motor  
10 vehicle.

11 ~~2-~~ b. A felony if during the commission of the felony a  
12 motor vehicle is used.

13 ~~3-~~ c. Failure to stop and render aid as required under the  
14 laws of this state in the event of a motor vehicle accident  
15 resulting in the death or personal injury of another.

16 ~~4-~~ d. Perjury or the making of a false affidavit or  
17 statement under oath to the department under this chapter or  
18 under any other law relating to the ownership or operation of  
19 motor vehicles.

20 ~~5-~~ e. Conviction, or forfeiture of bail not vacated, upon  
21 two charges of reckless driving.

22 ~~6-~~ f. Conviction of drag racing.

23 ~~7-~~ g. Eluding or attempting to elude a law enforcement  
24 vehicle as provided in section 321.279.

25 2. If a person whose driver's license has been revoked  
26 pursuant to this section is not convicted of the charge, upon  
27 record entry of disposition of the charge, the clerk of the  
28 district court shall forward a notice including the name and  
29 address of the party charged, the registration number of the  
30 vehicle involved, the nature of the offense charged by  
31 indictment or information, the date of the filing of the  
32 indictment or information, and the disposition of the charge  
33 to the department. Upon receipt of the notice from the clerk,  
34 the department shall automatically rescind the revocation and  
35 reinstate the person's driver's license without payment of any

1 charge or penalty.

2 Sec. 2. Section 321.210, Code 2001, is amended by adding  
3 the following new subsection:

4 NEW SUBSECTION. 3. If a person whose driver's license has  
5 been suspended pursuant to this section is not convicted of  
6 the charge, upon record entry of disposition of the charge,  
7 the clerk of the district court shall forward a notice  
8 including the name and address of the party charged, the  
9 registration number of the vehicle involved, the nature of the  
10 offense charged by indictment or information, the date of the  
11 filing of the indictment or information, and the disposition  
12 of the charge to the department. Upon receipt of the notice  
13 from the clerk, the department shall automatically rescind the  
14 suspension and reinstate the person's driver's license without  
15 payment of any charge or penalty.

16 Sec. 3. Section 321.212, subsection 1, paragraphs b and c,  
17 Code 2001, are amended to read as follows:

18 b. The department shall not revoke a license under the  
19 provisions of section 321.209, subsection 5 1, paragraph "e"  
20 ~~of section 321.209~~ for more than thirty days nor less than  
21 five days as recommended by the trial court.

22 c. The department shall revoke a license for six months  
23 for a first offense under ~~the provisions of~~ section 321.209,  
24 subsection 6 1, paragraph "f", where the violation charged did  
25 not result in a personal injury or damage to property.

26 Sec. 4. Section 321.215, subsection 1, unnumbered  
27 paragraph 2, Code 2001, is amended to read as follows:

28 However, a temporary restricted license shall not be issued  
29 to a person whose license is revoked pursuant to a court order  
30 issued under section 901.5, subsection 10, or under section  
31 321.209, ~~subsections 1 through 5 or~~ subsection 7 1, paragraphs  
32 "a" through "e" or paragraph "g", or to a juvenile whose  
33 license has been suspended or revoked pursuant to a  
34 dispositional order under section 232.52, subsection 2,  
35 paragraph "a", for a violation of chapter 124 or 453B, or

1 section 126.3. A temporary restricted license may be issued  
2 to a person whose license is revoked under section 321.209,  
3 subsection 6 1, paragraph "f", only if the person has no  
4 previous drag racing convictions. A person holding a  
5 temporary restricted license issued by the department under  
6 this section shall not operate a motor vehicle for pleasure.

7 Sec. 5. Section 321.215, subsection 2, unnumbered  
8 paragraph 1, Code 2001, is amended to read as follows:

9 Upon conviction and the suspension or revocation of a  
10 person's noncommercial driver's license under section 321.209,  
11 subsection 5-~~or~~-6 1, paragraph "e" or "f"; section 321.210;  
12 321.210A; or 321.513; or upon revocation pursuant to a court  
13 order issued under section 901.5, subsection 10; or upon the  
14 denial of issuance of a noncommercial driver's license under  
15 section 321.560, based solely on offenses enumerated in  
16 section 321.555, subsection 1, paragraph "c", or section  
17 321.555, subsection 2; or a juvenile, whose license has been  
18 suspended or revoked pursuant to a dispositional order under  
19 section 232.52, subsection 2, paragraph "a", for a violation  
20 of chapter 124 or 453B, or section 126.3, a person may  
21 petition the district court having jurisdiction for the  
22 residence of the person for a temporary restricted permit to  
23 operate a motor vehicle for the limited purpose or purposes  
24 specified in subsection 1. The petition shall include a  
25 current certified copy of the petitioner's official driving  
26 record issued by the department. The application may be  
27 granted only if all of the following criteria are satisfied:

28 Sec. 6. Section 321.560, Code 2001, is amended by adding  
29 the following new subsection:

30 NEW SUBSECTION. 5. If a person whose driver's license has  
31 been revoked as described in this section is not convicted of  
32 the charge, upon record entry of disposition of the charge,  
33 the clerk of the district court shall forward a notice  
34 including the name and address of the party charged, the  
35 registration number of the vehicle involved, the nature of the

1 offense charged by indictment or information, the date of the  
2 filing of the indictment or information, and the disposition  
3 of the charge to the department. Upon receipt of the notice  
4 from the clerk, the department shall automatically rescind the  
5 revocation and reinstate the person's driver's license without  
6 payment of any charge or penalty.

7 Sec. 7. Section 321J.13, subsection 6, paragraph b, Code  
8 2001, is amended by adding the following new subparagraphs:

9 NEW SUBPARAGRAPH. (3) That the defendant is not guilty on  
10 the charge of violation of section 321J.2 or 321J.2A resulting  
11 from the same circumstances that resulted in the  
12 administrative revocation.

13 NEW SUBPARAGRAPH. (4) That the case is otherwise subject  
14 to dismissal by the court.

15 Sec. 8. Section 321J.13, subsection 6, paragraph c, Code  
16 2001, is amended to read as follows:

17 c. ~~Such-a-holding~~ Holdings by the court in the criminal  
18 action ~~is~~ are binding on the department, ~~and the.~~

19 d. The department shall rescind the-revocation revocations  
20 in accordance with this section.

21 Sec. 9. Section 321J.13, Code 2001, is amended by adding  
22 the following new subsection:

23 NEW SUBSECTION. 7. If a person whose driver's license has  
24 been revoked pursuant to section 321J.9 or 321J.12 is not  
25 convicted of the charge, upon record entry of disposition of  
26 the charge, the clerk of the district court shall forward a  
27 notice including the name and address of the party charged,  
28 the registration number of the vehicle involved, the nature of  
29 the offense charged by indictment or information, the date of  
30 the filing of the indictment or information, and the  
31 disposition of the charge to the department. Upon receipt of  
32 the notice from the clerk, the department shall automatically  
33 rescind the revocation and reinstate the person's driver's  
34 license without payment of any charge or penalty.

35 EXPLANATION

1 This bill amends Code section 321J.13, relating to rescision  
2 of an administrative revocation of a driver's license for an  
3 operating while intoxicated (OWI) offense, and other  
4 provisions in Code chapters 321 and 321J relating to driver's  
5 license revocations and suspensions.

6 Code section 321J.13 presently requires the state  
7 department of transportation to rescind the administration  
8 revocation when the court determines that the stop was  
9 unreasonable or the chemical test was invalid or inadmissible.  
10 The bill specifies that the department shall also rescind the  
11 revocation when the defendant is acquitted or the case is  
12 otherwise dismissed by the court. The bill also specifies  
13 that holdings by the court in the criminal action are binding  
14 on the department, and that the department shall rescind  
15 revocations in accordance with Code section 321J.13.

16 The bill also requires the department to rescind any  
17 revocation or suspension under Code chapter 321 or 321J if the  
18 person is not convicted of the underlying charge leading to  
19 the revocation or rescision. The bill requires the clerk of  
20 court, similar to requirements under Code section 321.210D  
21 when a person is acquitted of vehicular homicide charges, to  
22 notify the department of the disposition of the case and  
23 certain other information. Upon receipt of such notice, the  
24 department must rescind the revocation or rescision related to  
25 the charge.

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