

FEB 24 2005
Place On Calendar

HOUSE FILE 440
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 179)

Passed House, Date 3-15-05 Passed Senate, Date 4-11-05
Vote: Ayes 83 Nays 15 Vote: Ayes 43 Nays 6
Approved 6/3/05

A BILL FOR

1 An Act relating to sanctioning the motor vehicle operating
2 privileges of a person upon a second or subsequent conviction
3 for motor fuel theft from a retail dealer.

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

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HF 440

1 Section 1. Section 321.215, subsection 1, unnumbered
2 paragraph 2, Code 2005, is amended to read as follows:

3 However, a temporary restricted license shall not be issued
4 to a person whose license is revoked pursuant to a court order
5 issued under section 901.5, subsection 10, or under section
6 321.209, subsections 1 through 5 or subsection 7, or to a
7 juvenile whose license has been suspended or revoked pursuant
8 to a dispositional order under section 232.52, subsection 2,
9 paragraph "a", for a violation of chapter 124 or 453B, or
10 section 126.3, or to a person whose license has been suspended
11 pursuant to a court order under section 714.7D. A temporary
12 restricted license may be issued to a person whose license is
13 revoked under section 321.209, subsection 6, only if the
14 person has no previous drag racing convictions. A person
15 holding a temporary restricted license issued by the
16 department under this section shall not operate a motor
17 vehicle for pleasure.

18 Sec. 2. Section 321.215, subsection 2, unnumbered
19 paragraph 1, Code 2005, is amended to read as follows:

20 Upon conviction and the suspension or revocation of a
21 person's noncommercial driver's license under section 321.209,
22 subsection 5 or 6; section 321.210; 321.210A; or 321.513; or
23 upon revocation pursuant to a court order issued under section
24 901.5, subsection 10; or upon the denial of issuance of a
25 noncommercial driver's license under section 321.560, based
26 solely on offenses enumerated in section 321.555, subsection
27 1, paragraph "c", or section 321.555, subsection 2; or a
28 juvenile, whose license has been suspended or revoked pursuant
29 to a dispositional order under section 232.52, subsection 2,
30 paragraph "a", for a violation of chapter 124 or 453B, or
31 section 126.3; or upon suspension of a driver's license
32 pursuant to a court order under section 714.7D, a person may
33 petition the district court having jurisdiction over the
34 residence of the person for a temporary restricted license to
35 operate a motor vehicle for the limited purpose or purposes

1 specified in subsection 1. The petition shall include a
2 current certified copy of the petitioner's official driving
3 record issued by the department. The application may be
4 granted only if all of the following criteria are satisfied:

5 Sec. 3. NEW SECTION. 714.7D RETAIL MOTOR FUEL.

6 Upon a second or subsequent conviction of a person under
7 section 714.2, subsection 5, for theft of motor fuel from a
8 retail dealer as defined in section 214A.1, the court may
9 order the state department of transportation to suspend the
10 driver's license or nonresident operating privilege of the
11 convicted person for up to thirty days in lieu of, or in
12 addition to, a fine or imprisonment.

13 EXPLANATION

14 This bill provides that a court may order suspension of a
15 person's driver's license or nonresident operating privilege
16 in lieu of, or in addition to, any other penalty which may be
17 imposed, upon a second or subsequent conviction for theft of
18 motor fuel not exceeding \$200 in value from a retail dealer.
19 In a case of extreme hardship, the person whose driver's
20 license was ordered suspended may petition the district court
21 which has jurisdiction over the person's residence for a
22 temporary restricted license to drive from the person's home
23 to specified places involving employment, health care,
24 education, substance abuse treatment, or court-ordered
25 community service. Such a temporary restricted license
26 applies only for noncommercial motor vehicle operation.

27 Under current law, theft of property not exceeding \$200 in
28 value is a simple misdemeanor, punishable by a fine of at
29 least \$50 but not more than \$500, or by imprisonment for no
30 more than 30 days, or by both.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 440 - Fuel Theft (LSB 2521 HV)

Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)

Fiscal Note Version – New

Requested by Representative Mike Reasoner

Description

House File 440 permits a judge to suspend a driver's license upon a second or subsequent conviction for theft of motor fuel not exceeding \$200.00 from a retail dealer.

Assumptions

1. It is not known how many times a judge will impose this penalty.
2. There were 7,971 convictions for Fifth Degree Theft that could have involved theft of motor fuel. The data do not distinguish between the various acts of Fifth Degree Theft, so it is not known how many drive-off motor fuel thefts occur each year.
3. The Bill will increase administrative costs for the Department of Transportation (DOT). The DOT's cost per hearing is \$133. The DOT's database will require reprogramming at a cost of approximately \$19,000 (300 hours at \$64 per hour).
4. The Bill may result in increased convictions for driving while the license is under suspension.
5. Oklahoma has a similar law with a base of 3.2 million people. Approximately 17 people are convicted under its law annually. Iowa has approximately 2.4 million drivers. Iowa will experience fewer than 17 convictions annually under this Bill.

Correctional Impact

To the extent that judges impose this civil penalty, and offenders drive with a suspended license, an increase in criminal convictions will occur. However, any increase will impact criminal justice system costs, including indigent defense, court time, Community-Based Corrections (CBC), and county jail as offenders are cited for contempt of court or probation violation proceedings.

Fiscal Impact

To the extent that Iowa's experience is similar to Oklahoma's, there may be no more than 17 suspensions annually. The fiscal impact of hearings held before the DOT is anticipated to be minimal. The DOT reprogramming costs of \$19,000 will be funded from the Road Use Tax Fund.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Transportation
State Public Defender's Office

/s/ Holly M. Lyons

March 2, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 440

S-3083

1 Amend House File 440, as passed by the House, as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 714.7D RETAIL MOTOR
6 FUEL THEFT -- MINIMUM PENALTIES.

7 A person who is convicted of a simple misdemeanor
8 under section 714.2, subsection 5, for theft of motor
9 fuel from a retail dealer, as defined in section
10 214A.1, is subject to the following, as applicable:

11 1. For a first offense, a fine of not less than
12 two hundred dollars.

13 2. For a second or subsequent offense, a fine of
14 not less than three hundred dollars and confinement in
15 the county jail for a minimum of two days."

16 2. Title page, by striking lines 1 and 2 and
17 inserting the following: "An Act relating to the
18 penalty".

By HERMAN C. QUIRMBACH

S-3083 FILED APRIL 5, 2005

Sands, chair
Horbach
Reasoner

Succeeded By
JF/O 440

HSB 179
PUBLIC SAFETY

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON BAUDLER)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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4 to a person whose license is revoked pursuant to a court order
5 issued under section 901.5, subsection 10, or under section
6 321.209, subsections 1 through 5 or subsection 7, or to a
7 juvenile whose license has been suspended or revoked pursuant
8 to a dispositional order under section 232.52, subsection 2,
9 paragraph "a", for a violation of chapter 124 or 453B, or
10 section 126.3, or to a person whose license has been suspended
11 pursuant to a court order under section 714.7D. A temporary
12 restricted license may be issued to a person whose license is
13 revoked under section 321.209, subsection 6, only if the
14 person has no previous drag racing convictions. A person
15 holding a temporary restricted license issued by the
16 department under this section shall not operate a motor
17 vehicle for pleasure.

18 Sec. 2. Section 321.215, subsection 2, unnumbered
19 paragraph 1, Code 2005, is amended to read as follows:

20 Upon conviction and the suspension or revocation of a
21 person's noncommercial driver's license under section 321.209,
22 subsection 5 or 6; section 321.210; 321.210A; or 321.513; or
23 upon revocation pursuant to a court order issued under section
24 901.5, subsection 10; or upon the denial of issuance of a
25 noncommercial driver's license under section 321.560, based
26 solely on offenses enumerated in section 321.555, subsection
27 1, paragraph "c", or section 321.555, subsection 2; or a
28 juvenile, whose license has been suspended or revoked pursuant
29 to a dispositional order under section 232.52, subsection 2,
30 paragraph "a", for a violation of chapter 124 or 453B, or
31 section 126.37; or upon suspension of a driver's license
32 pursuant to a court order under section 714.7D, a person may
33 petition the district court having jurisdiction over the
34 residence of the person for a temporary restricted license to
35 operate a motor vehicle for the limited purpose or purposes

1 specified in subsection 1. The petition shall include a
2 current certified copy of the petitioner's official driving
3 record issued by the department. The application may be
4 granted only if all of the following criteria are satisfied:

5 Sec. 3. NEW SECTION. 714.7D RETAIL MOTOR FUEL.

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7 section 714.2, subsection 5, for theft of motor fuel from a
8 retail dealer as defined in section 214A.1, the court may
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11 convicted person for up to thirty days in lieu of, or in
12 addition to, a fine or imprisonment.

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18 motor fuel not exceeding \$200 in value from a retail dealer.
19 In a case of extreme hardship, the person whose driver's
20 license was ordered suspended may petition the district court
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23 to specified places involving employment, health care,
24 education, substance abuse treatment, or court-ordered
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28 value is a simple misdemeanor, punishable by a fine of at
29 least \$50 but not more than \$500, or by imprisonment for no
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HOUSE FILE 440

AN ACT

RELATING TO SANCTIONING THE MOTOR VEHICLE OPERATING PRIVILEGES
OF A PERSON UPON A SECOND OR SUBSEQUENT CONVICTION FOR MOTOR
FUEL THEFT FROM A RETAIL DEALER.

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

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section 126.3, or to a person whose license has been suspended

pursuant to a court order under section 714.7D. A temporary
restricted license may be issued to a person whose license is
revoked under section 321.209, subsection 6, only if the
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department under this section shall not operate a motor
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subsection 5 or 6; section 321.210; 321.210A; or 321.513; or
upon revocation pursuant to a court order issued under section
901.5, subsection 10; or upon the denial of issuance of a
noncommercial driver's license under section 321.560, based
solely on offenses enumerated in section 321.555, subsection
1, paragraph "c", or section 321.555, subsection 2; or a
juvenile, whose license has been suspended or revoked pursuant
to a dispositional order under section 232.52, subsection 2,
paragraph "a", for a violation of chapter 124 or 453B, or
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pursuant to a court order under section 714.7D, a person may
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residence of the person for a temporary restricted license to
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Sec. 3. NEW SECTION. 714.7D RETAIL MOTOR FUEL.

Upon a second or subsequent conviction of a person under
section 714.2, subsection 5, for theft of motor fuel from a
retail dealer as defined in section 214A.1, the court may
order the state department of transportation to suspend the
driver's license or nonresident operating privilege of the

convicted person for up to thirty days in lieu of, or in addition to, a fine or imprisonment.

CHRISTOPHER C. RANTS
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 440, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 6/3, 2005

THOMAS J. VILSACK
Governor