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Statehouse Update - 2/27/2005

by Marty Ryan, Legislative Director

"Politics is the art of looking for trouble, finding it everywhere, diagnosing it incorrectly, and applying the wrong remedies."

--Groucho Marx

There must be 50 ways to lose your license

According to one researcher, there are 53 ways in which you can lose your license in Iowa. If [House File 440](#) is enacted you can count 54. [HF 440](#) allows the court to suspend the driver's license of a person convicted two or more times of a gas drive off. Granted, two or more times is ample warning, but the manner in which this bill is being used is offensive to the criminal process.

Proponents of its passage claim that it will be a deterrent. There is something terribly wrong with this thought process. Someone desperate enough to drive off without paying for gas is not thinking about the consequences. During debate in the Public Safety Committee meeting, floor manager Representative Tom Sands (R-Columbus Junction) said that the "intent of the legislation is education." Representative Mike Reasoner (D-Creston) said that the "deterrent effect is what we're seeking here." These are all the wrong reasons to pass a law.

Everyone appears to have forgotten the governor's [veto message of Senate File 2148](#) last year.

Senate File 2148 veto message:

"Suspension of an individual's driver's license is appropriate when it enhances safe highway travel as is in the case of drunk drivers or habitual traffic violators. Suspension of a driver's license is not currently a penalty for any type of theft under Iowa law nor should it become one. **It is a bad public policy to use suspension of a driver's license for anything other than enhancing safe highway travel.**

"Theft of any kind, including theft of gasoline, has penalties under Iowa criminal law that are based on the value of the item stolen. Currently, Iowa law provides that theft of

property not exceeding \$200 is punishable by a fine of at least \$50 but not more than \$500, or by imprisonment for not more than 30 days, or both. **Theft is theft and should be treated as such in all cases .**

“It's not necessary to create special classes of crimes that have varying penalties within already existing criminal statutes. This would be the only area where driver's license suspension would be used with regard to criminal theft. It does not make sense to treat the theft of gasoline in a different manner than the theft of any other property. This is also the only example where a driver's license suspension would be used to protect a private business. This would set bad precedents.

“It is particularly important not to make an exception to good policy practice or take a precedent setting action when other options to address a problem have not been exhausted. Proponents of this law argue that tougher penalties are needed as a deterrent, but do not ask for increased enforcement under the new law. Adequately publicizing existing criminal penalties, including posting them on gas pumps, would provide as strong a deterrent as expanding potential penalties without increasing enforcement.

“Additionally, implementing private business-based approaches to curb theft, such as pre-payment for gasoline and video surveillance, are appropriate and effective steps that private businesses can take to prevent fuel theft.”

Nothing has changed since last year. Petroleum marketers and convenient stores have not taken steps to prevent the theft of fuel. All they want is to put little stickers on the side of gas pumps warning customers that they may lose their license if they drive off without paying. At least one pump in central Iowa has already placed the sticker on the side of the pump. Anticipation? How arrogant!

The punishment should fit the crime – ALWAYS!
(What you can do: Call your [representative](#) at 515/281-3221, or : [e-mail](#) your [representative](#) and urge him/her to oppose House File 440.

Pseudoephedrine update

If the petroleum marketers are not asking for too much (HF 440 above), other retailers are. The current bills addressing the issue of how much Claritin you will be able to purchase, and when, and where, seem to be [Senate File 169](#) and [House Study Bill 175](#).

The ACLU-IA has not held a vigorous campaign against the multitude of bills limiting and describing the sale of pseudoephedrine this session. There is no constitutional right and no government requirement to purchasing particular products. However, we're beginning to take notice of several discussions surrounding the issue.

In SF 169, a retailer or an employee of a retailer cannot be held civilly liable for selling you products with pseudoephedrine products if the sale is made in good faith. Retailers who violate this provision can be charged with a simple misdemeanor no matter how

many violations. The consumer, on the other hand, can be charged with a simple, serious, or aggravated misdemeanor depending upon how long the flu season lasts.

But this isn't the most egregious of issues. Denial of bail and a section in HSB 175 that allows law enforcement officials to issue subpoenas *duces tecum* [subpoena of records] are some of the most ridiculous and serious offenses against our Constitution.

Voting rights

At a subcommittee meeting earlier this week Reps. Scott Raecker (R-Urbandale) and Jeff Elgin (R-Cedar Rapids) mentioned that they are getting quite a few messages opposing [HF 75](#), voting rights for ex-felons. Please contact your representative, and Reps. [Raecker](#) and [Elgin](#) and let them know that you support the position of the ACLU-IA, League of Women Voters - Iowa , Justice Reform Consortium, and Iowa Annual Conference of the United Methodist Church , and Ecumenical Ministries of Iowa . We will provide more information on this interesting and exciting issue in the next issue of the *Statehouse Update* .

As usual

There are numerous issues affecting civil liberties at the State Capitol. Unfortunately, we cannot list all of them in this newsletter. If you have a question about a particular bill, issue, or concern, contact ACLU-IA Legislative Director Marty Ryan to obtain a bill's status, information, or talking points. [Contact the ACLU-IA Legislative Director](#).

We appreciate the feedback to these Updates. Please keep us informed by forwarding copies of e-mails received from legislators after you have written them about a bill or subject included in this newsletter.

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http://www.governor.state.ia.us/comments/capitol_correspond/index.html

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