

### **321.208 Commercial driver's license disqualification replacement driver's license temporary license.**

1. A person is disqualified from operating a commercial motor vehicle for one year upon a conviction or final administrative decision that the person has committed any of the following acts or offenses in any state or foreign jurisdiction while operating a commercial motor vehicle:

- a.* Operating a commercial motor vehicle with an alcohol concentration, as defined in section 321J.1, of 0.04 or more.
- b.* Operating a commercial motor vehicle while any amount of a controlled substance is present in the person, as measured in the person's blood or urine.
- c.* Operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the person's commercial driver's license is revoked, suspended, or canceled or the person is disqualified from operating a commercial motor vehicle.
- d.* Operating a commercial motor vehicle involved in a fatal accident and being convicted of a moving traffic violation that contributed to the fatality, or manslaughter or vehicular homicide.

2. A person is disqualified from operating a commercial motor vehicle for one year upon a conviction or final administrative decision that the person has committed any of the following acts or offenses in any state or foreign jurisdiction while operating a commercial motor vehicle or while operating a noncommercial motor vehicle and holding a commercial driver's license:

- a.* Operating a motor vehicle while under the influence of an alcoholic beverage or other drug or controlled substance or a combination of such substances.
- b.* Refusal to submit to chemical testing required under chapter 321J.
- c.* Leaving the scene or failure to stop or render aid at the scene of an accident involving the person's vehicle.
- d.* A felony or aggravated misdemeanor involving the use of a commercial motor vehicle other than an offense involving manufacturing, distributing, or dispensing a controlled substance.

3. A person is disqualified from operating a commercial motor vehicle for three years if an act or offense described in subsection 1 or 2 occurred while the person was operating a commercial motor vehicle transporting hazardous material of a type or quantity requiring vehicle placarding.

4. A person is disqualified from operating a commercial motor vehicle for life if convicted or found to have committed two or more of the acts or offenses described in subsection 1 or 2 arising out of two or more separate incidents. However, a disqualification for life is subject to a reduction to a ten-year disqualification as provided in 49 C.F.R. § 383.51 as adopted by rule by the department.

5. A person is disqualified from operating a commercial motor vehicle for life upon a conviction that the person used a commercial or noncommercial motor vehicle in the commission of a felony or aggravated misdemeanor involving the manufacturing, distributing, or dispensing of a controlled substance as defined in section 124.101 and held a commercial driver's license at the time the offense was committed.

6. A person is disqualified from operating a commercial motor vehicle if the person receives convictions for committing within any three-year period two or more of the following offenses while operating a commercial motor vehicle:

- a.* Operating a commercial motor vehicle upon a highway when not issued a commercial driver's license.

*b.* Operating a commercial motor vehicle upon a highway when not issued the proper class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

*c.* Operating a commercial motor vehicle upon a highway without immediate possession of a driver's license valid for the vehicle operated.

7. A person is disqualified from operating a commercial motor vehicle if the person receives convictions for committing within any three-year period two or more of the following offenses while operating a commercial motor vehicle or while operating a noncommercial motor vehicle and holding a commercial driver's license if the convictions result in the revocation, cancellation, or suspension of the person's commercial driver's license or noncommercial motor vehicle driving privileges:

*a.* Speeding fifteen miles per hour or more over the legal speed limit.

*b.* Reckless driving.

*c.* Any violation of the traffic laws, except a parking violation or a vehicle weight violation, which arises in connection with a fatal traffic accident.

*d.* Following another motor vehicle too closely.

*e.* Improper lane changes in violation of section 321.306.

8. The period of disqualification under subsections 6 and 7 shall be sixty days for two offenses within any three-year period and one hundred twenty days for three offenses within any three-year period.

9. A person is disqualified from operating a commercial motor vehicle when the person's driving privilege is suspended or revoked.

10. A person is disqualified from operating a commercial motor vehicle:

*a.* For ninety days upon conviction for the first violation of an out-of-service order; for one year, upon conviction for a second violation of an out-of-service order in separate incidents within a ten-year period; and for not less than three and not more than five years upon conviction for a third or subsequent violation of an out-of-service order in separate incidents within a ten-year period.

*b.* For one year upon conviction for the first violation and for not less than three years and not more than five years upon conviction for a second or subsequent violation of an out-of-service order while transporting hazardous materials required to be placarded, or while operating a commercial motor vehicle designed to transport more than fifteen passengers including the driver.

11. A person is disqualified from operating a commercial motor vehicle if the person is convicted of a first, second, or third railroad crossing at grade violation as follows:

*a.* A person is disqualified from operating a commercial motor vehicle for sixty days if the person is convicted of a first railroad crossing at grade violation under section 321.341 or 321.343 and the violation occurred while the person was operating a commercial motor vehicle.

*b.* A person is disqualified from operating a commercial motor vehicle for one hundred twenty days if the person is convicted of a second railroad crossing at grade violation under section 321.341 or 321.343, the violation occurred while the person was operating a commercial motor vehicle, and the violation occurred

within three years after a first such violation.

c. A person is disqualified from operating a commercial motor vehicle for one year if the person is convicted of a third or subsequent railroad crossing at grade violation under section 321.341 or 321.343, the violation occurred while the person was operating a commercial motor vehicle, and the violation occurred within three years after a first such violation.

12. Upon receiving a record of a person's disqualifying conviction, administrative decision, suspension, or revocation, the department shall, by rule, without preliminary hearing and upon thirty days' advance notice, disqualify the person from operating a commercial motor vehicle upon a highway.

13. A person is disqualified from operating a commercial motor vehicle if the person either refuses to submit to chemical testing required under chapter 321J or submits to chemical testing and the results show an alcohol concentration as defined in section 321J.1 of 0.04 or more. The department, upon receipt of the peace officer's certification, subject to penalty for perjury, that the peace officer had reasonable grounds to believe the person to have been operating a commercial motor vehicle with an alcohol concentration of 0.04 or more and that the person refused to submit to the chemical testing or submitted to chemical testing and the results show an alcohol concentration as defined in section 321J.1 of 0.04 or more, shall, without preliminary hearing and upon thirty days' advance notice, disqualify the person from operating a commercial motor vehicle upon a highway.

The effective date of disqualification shall be thirty days after notification. Immediate notice of disqualification may be served on a person operating a commercial motor vehicle who refused to submit to a test or whose test results indicate an alcohol concentration of 0.04 or more by the peace officer administering the chemical test or, notwithstanding chapter 17A, the department may notify the person by first class mail. If immediate notice is served, the peace officer shall take the commercial driver's license or permit of the driver, if issued within the state, and issue a temporary commercial driver's license effective for only thirty days. The peace officer shall immediately send the person's commercial driver's license to the department in addition to the officer's certification required by this subsection.

14. Upon notice, the disqualified person shall surrender the person's commercial driver's license to the department and the department may issue a driver's license valid only to operate a noncommercial motor vehicle upon payment of a one dollar fee. The department shall notify the commercial driver's license information system of the disqualification if required to do so under section 321.204.

15. Notwithstanding the Iowa administrative procedure Act, chapter 17A, the filing of a petition for judicial review shall stay the disqualification pending the determination by the district court.

16. The department may reinstate a qualified person's privilege to operate a commercial motor vehicle after a period of disqualification and after payment of required fees.

17. As used in this section, the terms "*acts*", "*actions*", and "*offenses*" mean acts, actions, or offenses which occur on or after July 1, 1990.

[C39, § **5014.08**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 321.208]

90 Acts, ch 1230, § 51; 92 Acts, ch 1175, § 2426; 95 Acts, ch 55, §6; 96 Acts, ch 1152, § 13; 98 Acts, ch 1073, §9; 99 Acts, ch 96, §33; 2000 Acts, ch 1133, §6; 2001 Acts, ch 32, §44; 2001 Acts, ch 132, §7; 2002 Acts, ch 1063, §29; 2003 Acts, ch 44, §114; 2005 Acts, ch 8, §2225