

products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen and donations designated by inmates for reimbursement of victims' travel expenses. Any money in the fund over the amount needed to do normal business transactions, ~~and to reimburse any accounts which have subsidized the canteen fund, and to reimburse victims' travel expenses,~~ shall be considered profit. This money may remain in the canteen fund and be used for any purchase which the superintendent approves that will directly and collectively benefit the inmates of the institution or to reimburse victims' travel expenses.

Sec. 7. Section 904.405, Code 2001, is amended to read as follows:

904.405 TRANSCRIPT OF TESTIMONY.

The director shall cause the testimony taken at the investigation to be ~~transcribed and recorded.~~ The recording of the testimony shall not be transcribed unless the testimony is part of a case that is appealed or an interested party requests a transcript and pays the cost of preparing the transcript. The recording of the testimony, or the transcription thereof, shall be filed and maintained in the director's office at the seat of government within ten days after the testimony is taken, or as soon as practicable, and when filed the testimony shall be open for the inspection of any person for at least five years from the date the testimony is taken or the date of a final decision in a case involving the testimony, whichever is later. However, a recording of testimony involving any employee of the department shall continue to be filed and maintained until the employee no longer is employed by the department.

Approved May 16, 2001

CHAPTER 132

TRANSPORTATION — ADDITIONAL MISCELLANEOUS CHANGES

S.F. 350

AN ACT making transportation-related Code changes relating to temporary restricted permits and temporary entry and exit permits, commercial vehicle certificates of title, flat registration fees for older vehicles, railroad crossings, the content of driver's licenses and nonoperator's identification cards, child restraint devices in motor vehicles, hours of service, unsatisfied judgments, and bulk liquid transport, and providing an effective date.

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

Section 1. Section 321.1, subsection 20A, unnumbered paragraph 1, Code 2001, is amended to read as follows:

"Driver's license" means any license or permit issued to a person to operate a motor vehicle on the highways of this state, including but not limited to a temporary restricted or temporary license and an instruction, chauffeur's instruction, commercial driver's instruction, ~~temporary restricted,~~ or temporary permit.

Sec. 2. Section 321.20A, Code 2001, is amended to read as follows:

321.20A CERTIFICATE OF TITLE — COMMERCIAL VEHICLES.

1. Notwithstanding other provisions of this chapter, the owner of a commercial vehicle

subject to the proportional registration provisions of chapter 326 may make application to the department or the appropriate county treasurer for a certificate of title. The application for certificate of title shall be made within thirty days of purchase or transfer and shall be accompanied by a ten dollar title fee and the appropriate use tax. The department or the county treasurer shall deliver the certificate of title to the owner if no security interest or encumbrance appears on the certificate or to the person holding the first security interest or encumbrance shown on the certificate of title.

~~2. A commercial vehicle~~ An owner of a commercial vehicle subject to the proportional registration provisions of chapter 326 who has a fleet of more than fifty commercial vehicles and who is issued a certificate of title under this section shall not be subject to registration fees until the commercial vehicle is driven or moved upon the highways. The registration fee due shall be prorated for the remaining unexpired months of the registration year. Ownership of the commercial vehicle shall not be transferred until registration fees have been paid to the department.

~~3. This section shall apply to owners with fleets of more than fifty commercial vehicles based in Iowa under the proportional registration provisions of chapter 326. The original certificate of title shall be delivered to the owner if no security interest or encumbrance appears on the certificate; otherwise, the certificate of title shall be delivered by the department to the person holding the first security interest or encumbrance as shown on the certificate of title.~~

Sec. 3. NEW SECTION. 321.56 REPAIR OF OUT-OF-STATE COMMERCIAL MOTOR VEHICLES — PERMITS.

1. The operator of a commercial motor vehicle which is not registered within the state as required pursuant to chapter 321 or 326 or which does not have an interstate fuel permit, as required under chapter 452A, may enter the state and travel to a commercial vehicle dealer or repair facility and exit the state under the following circumstances:

a. If the commercial motor vehicle is entering the state solely for the purposes of maintenance and repair to the commercial motor vehicle and is exiting the state after having completed vehicle maintenance or repair.

b. If the operator has obtained a temporary entry or exit permit from the department.

c. If the commercial motor vehicle is unladen.

2. The department shall provide a temporary entry and exit permit to a commercial motor vehicle operator which authorizes the operator to enter and exit the state as allowed under this section. Any operator of a commercial motor vehicle who has in the operator's possession the permit allowing entry into the state and exit from the state, shall not be charged with a registration violation under chapter 321 or 326 or with a motor vehicle fuel tax violation under chapter 452A, except for violations of section 452A.74A.

3. For purposes of this section "commercial motor vehicle" means as defined in section 321.1, subsection 11, paragraph "e", subparagraph (2).

Sec. 4. Section 321.113, Code 2001, is amended to read as follows:

321.113 AUTOMATIC REDUCTION.

1. The registration fee for a motor vehicle shall not be automatically reduced under this section unless the registration fee is based on the value and weight of the motor vehicle as provided in section 321.109, subsection 1.

~~2. After~~ If a motor vehicle is more than five model years old, ~~that the~~ the part of the registration fee ~~which that~~ is based on the value of the vehicle shall be:

~~Seventy-five~~ seventy-five percent of the rate as fixed when the motor vehicle was new;

~~3. After~~ If a motor vehicle is more than six model years old, the part of the registration fee that is based on the value of the vehicle shall be fifty percent; of the rate as fixed when the motor vehicle was new.

~~After a motor vehicle is more than eight model years old, that part of the registration fee based on the value of the vehicle shall be ten percent. Where the ninth registration fee for a~~

~~motor vehicle has been computed and fixed by the department prior to July 4, 1949, there shall be added to the registration fee, in lieu of the ten percent provided for herein, one dollar if such registration fee has been computed and fixed at fifteen dollars or less and two dollars if the registration fee has been computed and fixed at more than fifteen dollars.~~

4. If a 1994 model year or newer motor vehicle is nine model years old or older the registration fee is thirty-five dollars. For purposes of determining the portion of the registration fee under this subsection that is based upon the value of the motor vehicle, sixty percent of the registration fee is attributable to the value of the vehicle.

5. a. If a 1993 model year or older motor vehicle has been titled in the same person's name since the vehicle was new or the title to the vehicle was transferred prior to January 1, 2002, the part of the registration fee that is based on the value of the vehicle shall be ten percent of the rate as fixed when the motor vehicle was new.

b. If the title of a 1993¹ or older motor vehicle is transferred to a new owner or if such a motor vehicle is brought into the state on or after January 1, 2002, the registration fee shall not be based on the weight and list price of the motor vehicle, but shall be as follows:

- (1) For a motor vehicle that is model year 1969 or older:
..... \$ 16.00
- (2) For a motor vehicle that is model year 1970 through 1989:
..... \$ 23.00
- (3) For a motor vehicle that is model year 1990 through 1993:
..... \$ 27.00

For purposes of determining the portion of the registration fee under this paragraph "b" that is based upon the value of the motor vehicle, sixty percent of the registration fee is attributable to the value of the vehicle.

Sec. 5. Section 321.189, subsection 6, Code 2001, is amended to read as follows:

6. LICENSES ISSUED TO PERSONS UNDER AGE TWENTY-ONE. A driver's license issued to a person under eighteen years of age shall ~~be identical in form to contain the same information~~ as any other driver's license except that the words "under eighteen" shall appear prominently on the face of the license. A driver's license issued to a person eighteen years of age or older but less than twenty-one years of age shall ~~be identical in form to contain the same information as~~ any other driver's license except that the words "under twenty-one" shall appear prominently on the face of the license. Upon attaining the age of eighteen or upon attaining the age of twenty-one, and upon payment of a one dollar fee, the person shall be entitled to a new driver's license or nonoperator's identification card for the unexpired months of the driver's license or card. An instruction permit or intermediate license issued under section 321.180B, subsection 1 or 2, shall include a distinctive color bar. An intermediate license issued under section 321.180B, subsection 2, shall include the words "intermediate license" printed prominently on the face of the license.

Sec. 6. Section 321.190, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. The department shall not issue a card to a person holding a driver's license. However, a card may be issued to a person holding a temporary permit under section 321.181. The card shall be identical in form to a driver's license issued under section 321.189 except the word "nonoperator" shall appear prominently on the face of the card. A nonoperator's identification card issued to a person under eighteen years of age shall ~~be identical in form to contain the same information as~~ any other nonoperator's identification card except that the words "under eighteen" shall appear prominently on the face of the card. A nonoperator's identification card issued to a person eighteen years of age or older but under twenty-one years of age shall ~~be identical in form to contain the same information as~~ any other nonoperator's identification card except that the words "under twenty-one" shall appear prominently on the face of the card.

¹ See chapter 176, §65 herein

Sec. 7. Section 321.208, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 6A. 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 321.343 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 321.343, 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 321.343, the violation occurred while the person was operating a commercial motor vehicle, and the violation occurred within three years after a first such violation.

Sec. 8. Section 321.213A, Code 2001, is amended to read as follows:

321.213A LICENSE SUSPENSION FOR JUVENILES ADJUDICATED DELINQUENT FOR CERTAIN DRUG OR ALCOHOL OFFENSES.

Upon the entering of a dispositional order under section 232.52, subsection 2, paragraph "a", the clerk of the juvenile court shall forward a copy of the adjudication and the dispositional order suspending or revoking the driver's license or operating privileges of the juvenile to the department. The department shall suspend the license or operating privilege of the child for one year. The child may receive a temporary restricted license ~~or permit~~, if eligible, as provided in section 321.215.

Sec. 9. Section 321.215, subsections 2 through 4, Code 2001, are amended to read as follows:

2. Upon conviction and the suspension or revocation of a person's noncommercial driver's license under section 321.209, 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 section 126.3, a person may petition the district court having jurisdiction for the residence of the person for a temporary restricted ~~permit license~~ to operate a motor vehicle for the limited purpose or purposes specified in subsection 1. The petition shall include a current certified copy of the petitioner's official driving record issued by the department. The application may be granted only if all of the following criteria are satisfied:

a. The temporary restricted ~~permit license~~ is requested only for a case of extreme hardship or compelling circumstances where alternative means of transportation do not exist.

b. The ~~permit license~~ applicant has not made an application for a temporary restricted ~~permit license~~ in any district court in the state which was denied.

c. The temporary restricted ~~permit license~~ is restricted to the limited purpose or purposes specified in subsection 1 at times specified in the ~~permit license~~.

d. Proof of financial responsibility is established as defined in chapter 321A. However, such proof is not required if the driver's license was suspended under section 321.210A or 321.513 or revoked pursuant to a court order issued under section 901.5, subsection 10.

If the district court determines that a temporary restricted license is necessary, the court shall order the department to issue a temporary restricted license to the applicant. The ~~district~~ court shall forward a record of each application for ~~such a~~ temporary restricted ~~permit license~~ to the department, together with the results of the disposition of the request by the court. ~~A temporary restricted permit is valid only if the department is in receipt of records required by this section.~~

3. The temporary restricted license ~~or permit~~ shall be canceled upon conviction of a moving traffic violation or upon a violation of a term of the license ~~or permit~~. A "moving traffic violation" does not include a parking violation as defined in section 321.210.

4. The temporary restricted license ~~or permit~~ is not valid to operate a commercial motor vehicle if a commercial driver's license is required for the person's operation of the commercial motor vehicle.

Sec. 10. Section 321.343, Code 2001, is amended to read as follows:

321.343 CERTAIN VEHICLES MUST STOP.

1. The driver of a motor vehicle carrying passengers for hire, a school bus, or a vehicle carrying hazardous material and required to stop before crossing a railroad track by motor carrier safety rules adopted under section 321.449, before crossing at grade any track of a railroad, shall stop the vehicle within fifty feet but not less than fifteen feet from the nearest rail. While stopped, the driver shall listen and look in both directions for an approaching train, and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely.

2. The driver of a commercial motor vehicle shall comply with all of the following provisions that apply to the driver:

a. If the driver is not always required to stop at a railroad crossing, slow down when approaching the crossing and check that the railroad tracks are clear of an approaching train before proceeding.

b. If the driver is not always required to stop at a railroad crossing, stop before reaching the crossing if the railroad tracks are not clear.

c. Refrain from proceeding through a railroad crossing if sufficient space is not available to drive completely through the crossing without stopping.

d. Obey a traffic-control device or the directions of an enforcement official at a railroad crossing.

e. Have sufficient undercarriage clearance before negotiating a railroad crossing.

3. No stop need be made at a crossing where a peace officer or a traffic-control device directs traffic to proceed. No stop need be made at a crossing designated by an "exempt" sign. An "exempt" sign shall be posted only where the tracks have been partially removed on either side of the roadway.

Sec. 11. Section 321.446, subsection 3, Code 2001, is amended to read as follows:

3. This section does not apply to peace officers acting on official duty. This section also does not apply to the transportation of children in 1965 model year or older vehicles, authorized emergency vehicles, ~~or buses,~~ or motor homes, except when a child is transported in a motor home's passenger seat situated directly to the driver's right. This section does not apply to the transportation of a child who has been certified by a physician licensed under chapter 148, 150, or 150A as having a medical, physical, or mental condition ~~which that~~ prevents or makes inadvisable securing the child in a child restraint system, safety belt, or safety harness.

Sec. 12. Section 321.449, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The department shall also adopt rules concerning hours of service for drivers of vehicles operated for hire and designed to transport ~~more than eight~~ seven or more persons, including the driver. The rules shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and that are regulated by local authorities pursuant to section 321.236.

Sec. 13. Section 321.560, subsection 1, paragraphs a and b, Code 2001, are amended to read as follows:

a. A temporary restricted ~~permit~~ license may be issued pursuant to section 321.215, subsection 2, to a person declared to be a habitual offender under section 321.555, subsection 1, paragraph "c".

b. A temporary restricted ~~permit~~ license may be issued pursuant to section 321J.4, subsection 9, to a person declared to be a habitual offender due to a combination of the offenses listed under section 321.555, subsection 1, paragraph “b” or “c”.

Sec. 14. Section 321.561, Code 2001, is amended to read as follows:

321.561 PUNISHMENT FOR VIOLATION.

It shall be unlawful for any person found to be a habitual offender to operate any motor vehicle in this state during the period of time specified in section 321.560 except for a habitual offender who has been granted a temporary restricted ~~permit~~ license pursuant to section 321.215, subsection 2. A person violating this section commits an aggravated misdemeanor.

Sec. 15. Section 321A.14, Code 2001, is amended to read as follows:

321A.14 SUSPENSION TO CONTINUE UNTIL JUDGMENTS PAID AND PROOF GIVEN.

~~Such A~~ license, registration, and nonresident’s operating privilege shall remain ~~so~~ suspended under section 321A.13, and shall not be renewed, nor shall any such license or registration be ~~thereafter~~ subsequently issued in the name of ~~such the~~ person, including any ~~such~~ person not previously licensed, ~~unless and until every such judgment is satisfied in full or to the extent hereinafter provided, and until the said or until evidence is provided, to the satisfaction of the department, that the judgment has not been renewed and is no longer enforceable.~~ A person gives whose license, registration, or nonresident’s operating privilege was suspended under section 321A.13 must provide proof to the department of financial responsibility subject to the exemptions stated in sections 321A.13 and 321A.16 prior to obtaining a license, registration, or nonresident operating privilege.

Sec. 16. Section 321J.1, subsection 7, Code 2001, is amended to read as follows:

7. “Driver’s license” means any license or permit issued to a person to operate a motor vehicle on the highways of this state, including but not limited to a driver’s, commercial driver’s, temporary restricted, or temporary license and an instruction, chauffeur’s instruction, commercial driver’s instruction, ~~temporary restricted~~, or temporary permit.

Sec. 17. Section 321M.1, subsection 7, Code 2001, is amended to read as follows:

7. “Driver’s license” means any license or permit issued to a person to operate a motor vehicle on the highways of this state, including but not limited to a driver’s, commercial driver’s, temporary restricted, or temporary license and an instruction, chauffeur’s instruction, commercial driver’s instruction, ~~temporary restricted~~, or temporary permit.

Sec. 18. Section 325A.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. “Bulk liquid commodities” means liquid commodities or compressed gases transported in a vehicle having a total cargo tank shell capacity of more than two thousand gallons.

Sec. 19. Section 325A.1, subsections 8 and 9, Code 2001, are amended to read as follows:

8. “Motor carrier of bulk liquid commodities” means a person engaged in the transportation, for hire, of bulk liquid commodities ~~or compressed gases in bulk upon any a~~ highway in this state.

9. “Motor carrier of property” means a person engaged in the transportation, for hire, of property by motor vehicle including a carrier transporting liquid commodities or compressed gases in a vehicle having a total cargo tank shell capacity of two thousand gallons or less.

Sec. 20. Section 325A.3, subsection 2, paragraph f, Code 2001, is amended to read as follows:

f. A financial statement completed by motor carriers of bulk liquid commodities or passengers from which the department can determine the financial fitness of the applicant to engage in the transport of bulk liquid commodities or passengers.

Sec. 21. Section 325A.3, subsection 4, Code 2001, is amended to read as follows:

4. Motor carriers of bulk liquid commodities or passengers shall complete a motor carrier safety education seminar provided by or approved by the department. This seminar must be completed within six months of the permit or certificate issuance.

Sec. 22. Section 422.9,² subsection 2, paragraph g, Code 2001, is amended by striking the paragraph and inserting in lieu thereof:

g. To the extent not otherwise included pursuant to section 164 of the Internal Revenue Code, add the amount of the annual registration fee paid for a motor vehicle pursuant to section 321.113, subsection 4, or section 321.113, subsection 5, paragraph "b", which is based upon the value of the vehicle. For purposes of this paragraph, sixty percent of the amount of the registration fee is based upon the value of the motor vehicle.

Sec. 23. Section 307.31, Code 2001, is repealed.

Sec. 24. EFFECTIVE DATE. Sections 4 and 22 of this Act, amending sections 321.113 and 422.9, take effect January 1, 2002.

Approved May 16, 2001

CHAPTER 133

CRIMINAL DEFENDANTS' RESTITUTION PLANS — PETITIONS

S.F. 393

AN ACT relating to a petition to the court for a hearing on a criminal defendant's restitution plan.

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

Section 1. Section 910.7, Code 2001, is amended to read as follows:
910.7 PETITION FOR HEARING.

1. At any time during the period of probation, parole, or incarceration, the offender or the office or individual who prepared the offender's restitution plan may petition the court on any matter related to the plan of restitution or restitution plan of payment and the court shall grant a hearing if on the face of the petition it appears that a hearing is warranted.

2. ~~The~~ After a petition has been filed, the court, at any time prior to the expiration of the offender's sentence, provided the required notice has been given pursuant to subsection 3, may modify the plan of restitution or the restitution plan of payment, or both, and may extend the period of time for the completion of restitution.

3. If a petition related to a plan of restitution has been filed, the offender, the county attorney, the department of corrections if the offender is currently confined in a correctional institution, the office or individual who prepared the offender's restitution plan, and the victim, shall receive notice prior to any hearing under this section.

Approved May 16, 2001

² See 2001 Iowa Acts, Extraordinary Session, chapter 3, §1 herein