

pose vehicle, motorcycle, trailer, or travel trailer may, upon written application to the department, order special registration plates with a distinguishing processed emblem as authorized by this section or as approved by the department. The fee for the issuance of special registration plates is twenty-five dollars for each vehicle, unless otherwise provided by this section, which fee is in addition to the regular annual registration fee. The county treasurer shall validate special registration plates with a distinguishing processed emblem in the same manner as regular registration plates, upon payment of five dollars in addition to the regular annual registration fee.

Sec. 9. Section 321.34, subsection 15, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The owner of a motor vehicle subject to registration under section 321.109, subsection 1, ~~light delivery truck, panel delivery truck, motorcycle, trailer, or pickup motor truck,~~ who has been awarded the legion of merit may, upon written application to the department and presentation of satisfactory proof of the award of the legion of merit as established by the Congress of the United States, order special registration plates with a legion of merit processed emblem. The emblem shall be designed by the department in cooperation with the adjutant general and shall signify that the owner was awarded the legion of merit. The application is subject to approval by the department, in consultation with the adjutant general. The special plates shall be issued at no charge and are subject to an annual registration fee of fifteen dollars. The county treasurer shall validate the special plates in the same manner as regular registration plates are validated under this section.

Approved March 25, 2003

CHAPTER 8

TRANSPORTATION AND TRANSPORTATION-RELATED REGULATION

S.F. 97

AN ACT relating to highway, aviation, motor vehicle transportation and public transit, including regulation of junkyards along highways and placement of political signs, elimination of the aviation hangar revolving loan fund, applications for certificates of title by motor vehicle dealers, fees charged for driver's licenses and nonoperator's identification cards and making an appropriation, security interests in motor vehicles, charges financed in a motor vehicle retail installment transaction, confidentiality of motor vehicle accident reports, requirements for motor carrier safety rules, exemptions for certain motor vehicle operators from motor carrier safety rules and hazardous materials transportation regulations, load limits for vehicles transporting construction machinery, urban public transit funding, and tariffs charged by motor carriers of household goods, and including effective and retroactive applicability date provisions.

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

DIVISION I HIGHWAYS

Section 1. Section 306C.1, subsection 5, Code 2003, is amended by striking the subsection.

Sec. 2. Section 306C.2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A person shall not establish, operate, or maintain a junkyard, any portion of which is within one thousand feet of the nearest edge of the right of way of any interstate ~~or primary~~ highway, except:

Sec. 3. Section 306C.3, Code 2003, is amended to read as follows:

306C.3 JUNKYARDS LAWFULLY IN EXISTENCE.

Any junkyard located outside a zoned or unzoned industrial area lawfully in existence on July 1, 1972, which is within one thousand feet of the nearest edge of the right of way and visible from the main-traveled portion of any highway on the interstate ~~or primary~~ system shall be screened, if feasible, by the department, ~~or~~ by the owner under rules and direction of the department, at locations on the highway right of way or in areas acquired for such purposes outside the right of way in order to obscure the junkyard from the main-traveled way of such highways.

Sec. 4. Section 306C.8, Code 2003, is amended to read as follows:

306C.8 AGREEMENTS WITH THE UNITED STATES AUTHORIZED.

The department may enter into agreements with the United States secretary of transportation as provided by Title 23, United States Code, relating to control of junkyards in areas adjacent to the interstate ~~and primary systems~~ system, and take action in the name of the state to comply with the terms of such agreements.

Sec. 5. Section 306C.10, subsection 13, Code 2003, is amended by striking the subsection.

Sec. 6. Section 306C.22, Code 2003, is repealed.

DIVISION II AVIATION

Sec. 7. Section 330.2, Code 2003, is repealed.

Sec. 8. LOAN REPAYMENTS. Moneys repaid on loans made from the aviation hangar revolving loan fund shall be credited to the state department of transportation and made available to support general aviation airports.

DIVISION III MOTOR VEHICLES

Sec. 9. Section 321.24, subsection 3, Code 2003, is amended to read as follows:

3. The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the title number assigned to the owner or owners of the vehicle, the amount of tax paid pursuant to section 423.7, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described, including the nature of the security interest, date of ~~notation~~ delivery, and name and address of the secured party.

Sec. 10. Section 321.45, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. The perfection of a lien or security interest ~~by notation on the certificate of title~~ as provided in section 321.50, or

Sec. 11. Section 321.48, subsection 2, Code 2003, is amended to read as follows:

2. A foreign registered vehicle purchased or otherwise acquired by a dealer for the purpose

of resale shall be issued a certificate of title for the vehicle by the county treasurer of the dealer's residence upon proper application as provided in this chapter and upon payment of a fee of five dollars and the dealer is exempt from the payment of any and all registration fees for the vehicle. The application for certificate of title shall be made within ~~fifteen~~ thirty days after the vehicle comes within the border of the state. However, a dealer acquiring a vehicle registered in another state which permits Iowa dealers to reassign that state's certificates of title shall not be required to obtain a new registration or a new certificate of title and upon transferring title or interest to another person shall execute an assignment upon the certificate of title for the vehicle to the person to whom the transfer is made and deliver the assigned certificate of title to the person.

Sec. 12. Section 321.50, subsections 1, 2, and 3, Code 2003, are amended to read as follows:

1. A security interest in a vehicle subject to registration under the laws of this state or a mobile home or manufactured home, except trailers whose empty weight is two thousand pounds or less, and except new or used vehicles held by a dealer or manufacturer as inventory for sale, is perfected by the delivery to the county treasurer of the county where the certificate of title was issued or, in the case of a new certificate, to the county treasurer where the certificate will be issued, of an application for certificate of title which lists the security interest, or an application for notation of security interest signed by the owner, or by one owner of a vehicle owned jointly by more than one person, or a certificate of title from another jurisdiction which shows the security interest, and payment of a fee of five dollars for each security interest shown. Upon delivery of the application and payment of the fee, the county treasurer shall note the date of delivery on the application. The date of delivery shall be the date of perfection of the security interest in the vehicle, regardless of the date the security interest is noted on the certificate of title. Up to three security interests may be perfected against a vehicle and shown on an Iowa certificate of title. If the owner or secured party is in possession of the certificate of title, it must also be delivered at this time ~~in order to perfect the security interest~~. If a vehicle is subject to a security interest when brought into this state, the validity of the security interest and the date of perfection is determined by section 554.9303. Delivery as provided in this subsection ~~is an indication constitutes perfection~~ of a security interest on a certificate of title for purposes of ~~this chapter and~~ chapter 554.

2. Upon receipt of the application and the required fee, ~~if the certificate of title was not delivered to the county treasurer along with the application,~~ the county treasurer shall notify the holder of the certificate of title to deliver to the county treasurer, within five days from the receipt of notice, the certificate of title to permit notation of the security interest. If the holder of the certificate of title ~~shall fail~~ fails to deliver it within ~~the said~~ five days, the holder shall be liable to anyone harmed by the holder's failure.

3. Upon receipt of the application, the certificate of title, if any, and the required fee, the county treasurer shall note ~~such the~~ security interest, and the date ~~thereof~~ of perfection of the security interest, on the certificate over the signature of ~~such the~~ officer or deputy and the seal of office. The county treasurer shall also note ~~such the~~ security interest and the date ~~thereof~~ of perfection of the security interest in the county records system. Upon receipt of a certificate of title issued by a foreign jurisdiction, on which a security interest has been noted, the county treasurer shall note the security interest and the date the security interest was noted on the foreign certificate of title, if available, or if not, the date of issuance of the foreign certificate of title, on the face of the new certificate of title over the signature of the officer or deputy and the seal of office. The county treasurer shall also note the security interest and the date that was noted on the certificate of title in the county records system. The county treasurer shall then mail the certificate of title to the first secured party as shown thereon.

Sec. 13. Section 321.50, subsection 6, Code 2003, is amended to read as follows:

6. Any person obtaining possession of a certificate of title for a vehicle not already subject to a perfected security interest, except new or used vehicles held by a dealer or manufacturer as inventory for sale, who purports to have a security interest in such vehicle shall, within ~~thirty~~

~~three hundred sixty-five~~ days from the receipt of the certificate of title, deliver such certificate of title to the county treasurer of the county where it was issued to note such security interest and, if such person fails to do so, the person's purported security interest in the vehicle shall be void and unenforceable and such person shall forthwith deliver the certificate of title to the county treasurer of the county where it was issued. If no security interest has been filed for notation on the certificate of title, the certificate shall be mailed by the treasurer to the owner of the vehicle. For purposes of determining the commencement date of the ~~thirty-day~~ three-hundred-sixty-five-day period provided by this subsection, it shall be presumed that the purported security interest holder received the certificate of title on the date of the creation of the holder's purported security interest in the vehicle or the date of the issuance of the certificate of title, whichever is the latter. Any person collecting a fee from the owner of the vehicle for the purpose of perfecting a security interest in such vehicle who does not cause such security interest to be noted on the certificate of title by the county treasurer shall remit such fee to the department of revenue and finance of this state.

This subsection is repealed effective July 1, 2004.

Sec. 14. Section 321.191, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 10. ONE-TIME SURCHARGE — APPROPRIATION.

a. Notwithstanding any other provisions of this section, during the period beginning July 1, 2003, and ending June 30, 2008, a person applying for a new driver's license or for renewal of a driver's license subject to a fee under subsection 2, 3, or 4 shall be charged a one-time surcharge of three dollars in addition to the license fee. A person shall not be required to pay the surcharge more than once during the five-year period.

b. Moneys collected from the one-time surcharge under paragraph "a" are appropriated to the state department of transportation to be used for costs associated with the rewrite of the driver's license issuance and records system. Moneys in excess of the amount needed to fund the rewrite of the system shall be deposited in the road use tax fund.

Sec. 15. NEW SECTION. 321.192 WAIVERS OR REFUNDS OF FEES.

1. Notwithstanding the fee requirements for issuance of a driver's license or nonoperator's identification card pursuant to section 321.190 or 321.191, the department may waive or refund fees pursuant to rules adopted by the department. The department may waive payment of, or refund to an applicant, all or a portion of the fees for renewal of a license or identification card or for a duplicate license or identification card if the department determines that the service standard for timely issuance has not been met or an error on the license or identification card requires the applicant to return to the driver's license station. The decision of the department not to waive or refund a fee is final agency action and not subject to review under chapter 17A.

2. Subsection 1 does not apply to licenses or identification cards issued by a county pursuant to chapter 321M.

Sec. 16. Section 321.271, Code 2003, is amended to read as follows:

321.271 REPORTS CONFIDENTIAL — WITHOUT PREJUDICE — EXCEPTIONS.

1. All accident reports filed by a driver of a vehicle involved in an accident as required under section 321.266 shall be in writing. The report shall be without prejudice to the individual so reporting and shall be for the confidential use of the department, except that upon the request of any person involved in the accident, the person's insurance company or its agent, or the attorney for such person, the department shall disclose the identity and address of other persons involved in the accident and may disclose the name of the insurance companies with whom the other persons have liability insurance. The department, upon written request of the person making the report, shall provide the person with a copy of that person's report. The written report filed with the department shall not be admissible in or used in evidence in any civil or criminal case arising out of the facts on which the report is based.

2. All written reports filed by a law enforcement officer as required under section 321.266

shall be made available to any party to an accident, the party's insurance company or its agent, the party's attorney, the federal motor carrier safety administration, or the attorney general, on written request to the department and the payment of a fee of four dollars for each copy. If a copy of an investigating officer's report of a motor vehicle accident filed with the department is retained by the law enforcement agency of the officer who filed the report, a copy shall be made available to any party to the accident, the party's insurance company or its agent, the party's attorney, the federal motor carrier safety administration, or the attorney general, on written request and the payment of a fee. However, the attorney general and the federal motor carrier safety administration shall not be required by the department or the law enforcement agency to pay a fee for a copy of a report filed by a law enforcement or investigating officer.

3. Notwithstanding subsections 1 and 2, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual.

Sec. 17. Section 321.449, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A person shall not operate a commercial vehicle on the highways of this state except in compliance with rules adopted by the department under chapter 17A. The rules shall be consistent with the federal motor carrier safety regulations promulgated under United States Code, Title 49, and found in 49 C.F.R. § ~~pts. 385,~~ 390-399 and adopted under chapter 17A.

Sec. 18. Section 321.449, subsections 4 and 8, Code 2003, are amended to read as follows:

4. Notwithstanding other provisions of this section, rules adopted under this section for drivers of commercial vehicles shall not apply to a driver of a commercial vehicle who is engaged exclusively in intrastate commerce, when the commercial vehicle's gross vehicle weight rating is twenty-six thousand pounds or less, unless the vehicle is used to transport hazardous materials requiring a placard or if the vehicle is designed to transport more than fifteen passengers, including the driver. For the purpose of complying with the hours of service recordkeeping requirements under 49 C.F.R. § 395.1(e)(5), a driver's report of daily beginning and ending on-duty time submitted to the motor carrier at the end of each work week shall be considered acceptable motor carrier time records. In addition, rules adopted under this section shall not apply to a driver operating intrastate for a farm operation as defined in section 352.2, or for an agricultural interest when the commercial vehicle is operated between the farm as defined in section 352.2 and another farm, between the farm and a market for farm products, or between the farm and an agribusiness location. A driver or a driver-salesperson for a private carrier, who is not for hire and who is engaged exclusively in intrastate commerce, may drive twelve hours, be on duty sixteen hours in a twenty-four hour period and be on duty seventy hours in seven consecutive days or eighty hours in eight consecutive days. For-hire drivers who are engaged exclusively in intrastate commerce and who operate trucks and tractors exclusively for the movement of construction materials and equipment to and from construction projects may also drive twelve hours, be on duty sixteen hours in a twenty-four-hour period, and be on duty seventy hours in seven consecutive days or eighty hours in eight consecutive days. A driver-salesperson means as defined in 49 C.F.R. § 395.2, as adopted by the department by rule.

8. Rules adopted under this section shall not apply to vehicles engaged in intrastate commerce and used in combination, provided the gross vehicle weight rating of the towing unit is ten thousand pounds or less and the gross combination weight rating is twenty-six thousand pounds or less.

Sec. 19. Section 321.450, subsection 4, Code 2003, is amended to read as follows:

4. Notwithstanding other provisions of this section, rules adopted under this section shall not apply to a farmer or employees of a farmer when transporting an agricultural hazardous

material, ~~except class 2 material~~, between the sites in the farmer's agricultural operations unless the material is being transported on the interstate highway system. As used in this subsection, "farmer" means a person engaged in the production or raising of crops, poultry, or livestock; "farmer" does not include a person who is a commercial applicator of agricultural chemicals or fertilizers.

Sec. 20. Section 321E.7, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 1A. The gross weight on any one axle of any vehicle or combination of vehicles traveling under a permit issued in accordance with this chapter shall not exceed the maximum axle load prescribed in section 321.463; except that any one axle on a vehicle or combination of vehicles transporting construction machinery shall be allowed a one thousand pound weight tolerance, provided the total gross weight of the vehicle or combination of vehicles does not exceed the gross weight allowed by the permit.

Sec. 21. Section 321M.9, subsection 1, Code 2003, is amended to read as follows:

1. FEES TO COUNTIES. Notwithstanding any other provision in the Code to the contrary, the county treasurer of any county authorized to issue driver's licenses under this chapter shall retain for deposit in the county general fund ~~three~~ five dollars and ~~seventy-five cents~~ of fees received for each issuance or renewal of driver's licenses and nonoperator identification cards, but shall not retain any moneys for the issuance of any persons with disabilities identification devices. The county treasurer shall remit the balance of fees to the department.

Sec. 22. Section 322.19, unnumbered paragraph 5, Code 2003, is amended to read as follows:

~~Amount financed shall be~~ For purposes of this chapter, "amount financed" means as defined in section 537.1301. However, notwithstanding section 322.33, subsection 3, the amount financed may also include additional charges for the following, which shall not be included in the finance charge:

1. A motor vehicle service contract as defined in section 516E.1.
2. Voluntary debt cancellation coverage, whether insurance or debt waiver, which may be excluded from the finance charge under the federal Truth in Lending Act as defined in section 537.1302.

Sec. 23. NEW SECTION. 324A.7 URBAN PUBLIC TRANSIT SYSTEMS — INTENT.

An urban public transit system shall, to the extent practicable, utilize private-sector operators in the planning and provision of transit services.

Sec. 24. NEW SECTION. 325A.7A TARIFFS — APPROVAL BY DEPARTMENT.

1. TRANSPORTATION PROHIBITED. A motor carrier of household goods shall not undertake to perform any service for, engage in, or participate in the transportation of personal effects or property between points within this state until the motor carrier's tariff has been filed, posted, and approved by the department.

2. CHANGE IN TARIFF. Unless the department orders otherwise, a motor carrier of household goods shall give thirty days' notice to the department and to the public, as provided by rules adopted by the department, prior to making a change in a tariff.

3. CHANGES WITHOUT NOTICE. The department, for good cause shown, may allow changes in a tariff without the thirty days' notice required in subsection 2 by issuing an order specifying the changes to be made and the time they shall take effect.

4. POWER TO REVISE TARIFF. Any time a tariff is filed with the department, the department may hold a hearing for the purpose of determining that the tariff is just, reasonable, and nondiscriminating. The hearing shall be conducted by the director or the director's designee.

5. SUSPENSION OF TARIFF. Pending the hearing and the decision of the department, the tariff shall not be put into effect; however, this period of suspension of the tariff shall not exceed one hundred twenty days beyond the time the tariff would otherwise have been effective after filing and thirty days' notice.

6. DECISION. Following the hearing, the department shall establish the tariff changes proposed by the motor carrier in whole or in part, or establish other changes the department determines to be just, reasonable, and nondiscriminating.

Sec. 25. NEW SECTION. 325A.7B AGENCY TARIFFS.

1. AUTHORIZATION. Sections 325A.2 and 325A.7 shall not be construed to prohibit the making of rates by two or more motor carriers of household goods.

2. AGENCY TARIFFS. The names of the several motor carriers that are parties to an agency tariff shall be specified in the tariff. Unless otherwise required by the department, the agency tariff may be filed by only one of the parties to the agency tariff, or by a tariff filing agent, under a power of attorney granted by each of the parties to the agency tariff not doing the filing and filed with the department on forms prescribed by the department.

Sec. 26. Section 321.191, subsection 10, as enacted in this Act, is repealed effective July 1, 2008.

Sec. 27. The section in this Act amending section 321M.9 is repealed effective July 1, 2005.

Sec. 28. The state department of transportation, in consultation with the Iowa county treasurers association, shall conduct a study of the county driver's license issuance program, including the financial effect the program has had on counties. The department shall report its findings and recommendations to the general assembly no later than December 31, 2003.

Sec. 29. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The section of this Act amending section 321E.7, being deemed of immediate importance, takes effect upon enactment.

2. The sections of this Act enacting sections 325A.7A and 325A.7B, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 2002.

3. The sections of this Act amending section 321.24, subsection 3, section 321.45, subsection 2, paragraph "a", and section 321.50, subsections 1, 2, and 3, take effect July 1, 2004.

Approved March 28, 2003

CHAPTER 9

CITY HOSPITAL OR HEALTH CARE FACILITY TRUSTEES — RESIDENCY — VACANCIES

S.F. 357

AN ACT relating to election or appointment of trustees of a city hospital or health care facility.

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

Section 1. Section 392.6, unnumbered paragraph 1, Code 2003, is amended to read as follows:

If a hospital or health care facility is established by a city, the city shall by ordinance provide for the election, at a general, city, or special election, of three trustees, whose terms of office shall be four years. However, at the first election, three shall be elected and hold their office,