

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Proposing rule making related to sanctions and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 615, “Sanctions,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 307A.2, 321.180B, 321.189, 321.193, 321.201, 321.208, 321.210, 321.210A, 321.210D, 321.213B, 321.513, 321.560 and 321A.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 321.177, 321.178, 321.180B, 321.184, 321.185, 321.189, 321.191, 321.193, 321.194, 321.201, 321.205, 321.208, 321.210, 321.210A, 321.210C, 321.210D, 321.212, 321.213B, 321.216 to 321.216C, 321.218, 321.218A, 321.323A, 321.372, 321.513, 321.555, 321.556, 321.560, 321A.2, 321J.21 and 714.7D.

*Purpose and Summary*

The proposed amendments form a comprehensive update of the Department’s rules affecting driver’s license sanctions to better implement and align with existing legal authority and Department practice, including eliminating outdated or irrelevant requirements or options and standardizing and streamlining processes and procedures. The Department is changing the language throughout Chapter 615 to reflect that the Department “shall” take an action, rather than “may” take an action. There are a number of areas in which the Iowa Code gives the Department the discretion to impose a sanction for a particular class of offenses by providing that the Department “may” impose a sanction, and the Department exercises that discretion by implementing rules that impose the sanction. Changing “may” to “shall” in the rules avoids the implication that the Department is exercising its discretion on a case-by-case basis and ensures consistent application of its sanctioning structure for like offenses, thereby providing consistency and predictability for persons who are facing a license sanction. The following explains each proposed amendment:

Item 1 removes an outdated definition of “conviction free,” a term which no longer appears anywhere in Chapter 615.

Item 2 removes an outdated reference to the Iowa Code Supplement within the definition of “moving violation.”

Item 3 encompasses the rule that addresses the cancellation of licenses. This item strikes redundant language in subrules 615.7(1) and 615.7(2) because the language is already provided in Iowa Code sections 321.184, 321.185 and 321.189 and adds a new subrule to clarify that a license shall be canceled for the failure to pay the license fee, which aligns to the Department’s existing practice of canceling a license if the Department is notified the applicant does not have sufficient funds (returned check). Item 3 also updates the rule’s implementation sentence to include reference to Iowa Code section 321.191 (fees for driver’s licenses).

Item 4 encompasses the rule that governs the determination that a person is a habitual offender. This item corrects outdated references to Iowa Code sections 321.560 and 707.6A.

Item 5 addresses the length of license suspensions or revocations. This item amends rule 761—615.11(321) to encompass both license suspensions and revocations, as both are included in Iowa Code sections 321.212 and 321.218. The existing rule just refers to the term “suspension,” which is not entirely accurate as the underlying Iowa Code sections address both the length of suspensions and the length of revocations. Item 5 also conforms to language in Iowa Code sections 321.212 and 321.218 and existing Department practice by adding language that specifies the period of time a license sanction is extended for driving while the license is suspended or revoked shall be for a like period of time or one year, whichever is shorter, unless a statutory exception applies. Adding this language will ensure the rule accurately describes the manner in which a license sanction must be extended under Iowa law.

Item 6 updates the rule that addresses the license suspension of a habitually reckless or negligent driver. This item amends the definition of “contributive or contributed” to replace the current definition with a cross reference to the definition of “contributive accident” in rule 761—615.1(321), which promotes consistency in the rules, instead of restating the definition. This item also clarifies that violations under Iowa Code section 321.276 (use of electronic communication device while driving) do not count towards a license suspension for a habitually reckless or negligent driver as these violations are not considered moving violations under Iowa law.

Item 7 encompasses the rule that governs the suspension of a habitual violator. This item makes changes to align with the Department’s existing practice to suspend a person’s license whenever the Department receives notice of three or more qualifying convictions in a 12-month period and to strike the provision allowing a driver’s license hearing officer to reduce the period of suspension based on mitigating circumstances. Making these changes will lead to standardized treatment among cases and avoids the implication that the Department is exercising its authority on a case-by-case basis. This item also clarifies that violations under Iowa Code section 321.276 (use of electronic communication device while driving) do not count towards a habitual violator suspension as these violations are not considered moving violations under Iowa law.

Item 8 updates the rule that addresses suspension for incapability. This item makes changes to align with Department practice and legal obligation to always suspend a person’s license whenever the person is deemed incapable of safely operating a motor vehicle under Iowa Code sections 321.177, 321.210 and 321.212.

Item 9 encompasses the rule that affects suspension for unlawful use of a license. This item makes changes to align with the Department’s existing practice to suspend a person’s license whenever the person is convicted of unlawful or fraudulent use of a driver’s license and states that the rule also applies to convictions under Iowa Code section 321.216C (which pertains to the use of a driver’s license by an underage person to obtain tobacco or tobacco-related products). Item 9 also updates the rule’s implementation sentence to include a reference to Iowa Code section 321.216C.

Item 10 encompasses the rule that governs suspension for a serious violation. This item makes changes to align with the Department’s existing practice to suspend a person’s license whenever the Department receives notice of a conviction that is a serious violation under subrule 615.17(2) and amends the definition of “contributed” to reference the definition of “contributive accident” in rule 761—615.1(321), instead of restating the definition. This item amends paragraph 615.17(2)“c” to strike the provision allowing a driver’s license hearing officer to reduce the period of suspension based on mitigating circumstances. Making these changes will lead to standardized treatment among cases and avoids the implication that the Department is exercising its authority on a case-by-case basis. The periods of suspension for speeding offenses of 25 mph or more above the posted speed limit are also consolidated to ensure consistent treatment amongst offenses in a similar range, rather than providing for a different length of suspension for each additional mile per hour over the speed limit. Item 10 amends paragraph 615.17(2)“d” to clarify that convictions for violations of municipal ordinances for unlawfully passing a school bus are also subject to suspension for serious violation, which aligns to the

Department's existing practice of treating violations of municipal ordinances the same as violations of state law. This item adds new paragraph 615.17(2)"e" to align with the requirements in Iowa Code section 321.323A (otherwise known as the move over, slow down law) and provides for a license suspension if a person is convicted of violating Iowa Code section 321.323A or a similar municipal ordinance. Item 10 also amends the rule's implementation sentence to add a reference to Iowa Code section 321.323A and to remove an outdated reference to 2012 Iowa Acts.

Item 11 encompasses the rule that addresses suspension for a moving violation during driving probation. This item clarifies that probation refers to the probationary driving period after a person's license has been sanctioned, as sometimes there is confusion among persons between a driving probation and probation after a criminal conviction. Item 11 also makes changes to align with the Department's existing practice to suspend a person's license whenever the Department receives notice of a conviction of a moving traffic violation while a person is on driving probation, and aligns the length of suspension with the requirements in Iowa Code section 321.210C, which requires the driving probationary period to be equal to the original suspension period or for one year, whichever is shorter.

Item 12 updates the rule that affects suspension of a minor's school license and a minor's restricted license. This item makes changes to align with the Department's existing practice to suspend a minor's school license whenever the Department receives notice of a conviction for a moving violation, accident or statement from an authorized individual that the minor has violated a restriction of the license. This item also makes changes to align with the Department's existing practice to suspend a minor's restricted license whenever the Department receives notice of a conviction for a moving violation.

Item 13 updates the rule that governs suspension for failure to pay a court fine, penalty, surcharge or court costs. This item strikes an outdated reference to a form that the Department no longer uses. In situations where the clerk of court notifies the Department that a person has met the criteria for license suspension due to the failure to pay a court fine, penalty, surcharge or court costs, it is more efficient for the Department to receive notification electronically from the clerk of court, rather than on a specific form.

Item 14 updates the rule that affects suspensions for juveniles. This item makes a change to an Iowa Code reference within the rule's implementation sentence to make the citation consistent with citations to other Iowa Code sections in the chapter, but the item does not change the content of the rule.

Item 15 encompasses the rule that addresses suspension or revocation for violation of a restricted license. This item makes changes to align with the Department's existing practice to suspend a person's license whenever the person violates a license restriction and strikes the term "revocation" from the rule, since the Department always suspends the license but does not revoke it. This item also adds new language to provide a person with the opportunity to present proof that the person's license restriction is no longer necessary prior to the effective date of the suspension, in which case the Department may rescind the suspension. This change allows the person to potentially avoid the consequences of going under suspension as well as to avoid going through the appeal process when the Department finds that the license restriction was unnecessary.

Item 16 updates the rule that affects revocation for out-of-state offenses. This item makes changes to align with Iowa Code section 321.205 and the Department's existing practice to revoke an Iowa resident's license whenever the Department receives notification by another state that the person committed an offense in the other state which, if committed in Iowa, would be grounds for revocation. This item also strikes unnecessary rescinded language.

Item 17 addresses the rule regarding extension of the revocation period. This item clarifies that if a person is convicted of operating a motor vehicle while the person's license is revoked and the person's driving record does not indicate what the original grounds for revocation were, the period of the license revocation shall not exceed six months. This is consistent with the Department's existing practice and

treats a conviction under Iowa Code section 321.218 or 321J.21 the same in the situation where the underlying offense is unknown. This item also removes reference to an Iowa Code section within the rule's implementation sentence since revocations under Iowa Code section 321.218 are already addressed in subrule 615.11(2).

Item 18 encompasses the rule that governs the hearing and appeal process. This item strikes an obsolete reference to Iowa Code section 321.177 that referred to license denials for delinquent accounts owed to the state. Item 18 also removes references to Iowa Code sections 321.210B and 321.210D, which previously did not allow an administrative appeal hearing for license suspensions issued under these Iowa Code sections. Iowa Code section 321.210B relates to a suspension for a default in an installment payment agreement with the county attorney or county attorney's designee for failure to pay Iowa court fines. As the rule currently provides, this type of suspension is excluded from an administrative appeal hearing under Iowa Code chapter 17A. However, Iowa Code section 321.210B(10) provides that a license suspension after a default in any installment payment agreement shall be treated like a license suspension for failure to pay an Iowa court fine under Iowa Code section 321.210A. A licensee subject to a license suspension under Iowa Code section 321.210A is permitted to request an appeal hearing. By not allowing an administrative appeal for license suspensions under Iowa Code section 321.210B, these license suspensions were not being treated like license suspensions under Iowa Code section 321.210A as the Iowa Code requires. Iowa Code section 321.210D relates to a suspension when the Department receives evidence of trial information or an indictment in a vehicular homicide case. As the rule currently provides, this type of suspension is excluded from an administrative appeal hearing under Iowa Code chapter 17A. While the statute does require the Department to suspend the person's license in this situation, it does not preclude a licensee from requesting an administrative appeal. Allowing an administrative appeal will provide due process in this situation where the license is being suspended based upon a filing of trial information or an indictment for vehicular homicide to a similar degree as a suspension based on a court conviction where the licensee would have had the opportunity to request a trial and present evidence prior to being convicted.

Item 19 corrects the name of the office since the Department renamed the Office of Driver Services to Driver and Identification Services. The office name is also corrected in Items 20 and 27.

Item 20 also updates the rules related to the hearing and appeal process. This item adds new paragraph 615.38(3)"b" which provides that, if the person is contesting a license sanction for which the underlying basis is a conviction or a suspension under Iowa Code section 321.210A (failing to pay court fines) or 321.210B (default in installment agreement), the informal settlement process shall consist of a review by the Department to determine if there was a mistake of fact in the identity of the person or the driving record. Making this change will lead to standardized treatment among cases and avoids the implication that the Department is exercising its discretion on a case-by-case basis. Item 20 also adds new paragraph 615.38(3)"e" to provide that, for a person contesting a license sanction for which the underlying basis is a conviction or a suspension under Iowa Code section 321.210A (failing to pay court fines) or 321.210B (default in installment agreement), the issue at a contested case hearing or appeal shall be similarly limited to determining whether there was a mistake of fact. In certain cases, individuals who are subject to a suspension based on a conviction or a suspension due to the failure to pay a court fine will attempt to relitigate the merits of the underlying conviction or the amount owed for failing to pay court fines during the administrative appeal process, but the Department does not have jurisdiction over those issues. A person wishing to challenge a court conviction must follow the appropriate appeal process with the court, and a person who is contesting the amount owed for court fines or default in any installment agreement for failing to pay court fines must work with the clerk of court.

Item 21 addresses license reinstatement or reissue. This item eliminates an outdated requirement to appear before a driver's license examiner in order to reinstate the person's license, which aligns with Department practice of allowing any appropriate licensing employee to assist the person, rather than a specific classification of employee. The Department will notify the person that the person is eligible to

reinstate the person's license, and then the person may obtain or reinstate the license by the Department's usual method, which does not require specifically a driver's license examiner to perform the transaction. Item 21 also amends subrule 615.40(2) and the rule's implementation sentence to strike an outdated reference to the Iowa Code Supplement.

Item 22 addresses investigation of convictions based on fraud. This item strikes reference to a specific form name used to submit an identity theft complaint to the Department. This amendment makes the rule consistent with other rules which only reference the form number and not the form name.

Items 23 and 24 encompass the rule that addresses remedial driver improvement for persons in the graduated driver's license program under Iowa Code section 321.180B. This item clarifies that participation in the remedial driver improvement program shall be required unless the person's driver's license has already been suspended or revoked for the same occurrence when a person receives a conviction for a moving violation, has an accident or violates a license restriction while holding a graduated driver's license. Remedial driver improvement may include license suspension, safety advisory letter, additional restriction(s), vision screening, knowledge examination, and driving examination, as determined by the Department. This amendment is consistent with the provisions in Iowa Code section 321.180B which state that a person in the graduated driver's license program shall be subject to remedial driver improvement and clarifies in the rule that remedial driver improvement is required in the event the person is not already facing an additional license sanction under this chapter, which ensures that a driver will face a consequence for the violation without requiring the driver to face potentially more than one consequence for the same occurrence.

Item 25 encompasses the rule that addresses the driver improvement program. This item expands the number of first offenses for which a person would be eligible to take a driver improvement program course in lieu of suspension and clarifies that the ability to take driver improvement for certain offenses applies even when the person is facing a license sanction under this chapter. The list of offenses is expanded to include: first offense violations for speeding 25 miles per hour or more over the speed limit, violations of the probationary driving period if a revocation would result, first offense violations for unlawfully passing a school bus, first offense violations of the move over, slow down law and other first offense violations under paragraph 615.17(2)"a" or "b," which include convictions for a moving violation accompanied by a written report from law enforcement that the offense was unusually serious and convictions for a moving violation which contributed to a fatal motor vehicle accident. Allowing drivers with these first-time offenses to take a driver improvement course in lieu of suspension promotes rehabilitating driver behavior rather than simply pushing drivers out of the driver system. This allowance includes incidents resulting in a fatality since separate and potentially harsher penalties and consequences already exist for convictions deemed to be vehicular homicide or that cause personal injury or death and drivers involved in fatal crashes that do not rise to the level of vehicular homicide will likewise benefit from rehabilitative efforts. This item clarifies that while a person is not eligible to take driver improvement more than once in a two-year period, upon expiration of the two-year period, the person will again be eligible to take driver improvement in lieu of suspension. Item 25 provides that the length of probation following completion of a driver improvement course shall be the length of the original suspension and no longer allows the length of probation to be reduced by a driver's license hearing officer, which avoids inconsistent decisions and avoids the implication that the Department is exercising its authority on a case-by-case basis. This item also provides that a suspension for failure to attend a driver improvement program shall be the length of the original suspension, but not less than 90 days.

Item 26 rescinds rule 761—615.44(321) that addresses the driver improvement interview since the Department no longer conducts driver improvement interviews. The Department no longer has the capacity to conduct individual interviews and instead imposes uniform restrictions to reduce inconsistent decisions and outcomes which are already reflected in the Department's rules, and thus the rule is no longer necessary.

Item 27 encompasses the rule that governs the temporary restricted license. This item states that the Department may issue a temporary restricted license as provided in Iowa Code section 321.215 and then specifically lists which applicants are ineligible for a temporary restricted license under Iowa Code section 321.215(1). This item amends subparagraph 615.45(1)“a”(6) to clarify that a person who is convicted for driving while under suspension may obtain a temporary restricted license if the underlying suspension or revocation would otherwise qualify for a temporary restricted license. Item 27 adds new subparagraph 615.45(1)“a”(15) to align with Iowa Code section 321.215(1), which does not allow a temporary restricted license for a suspension under Iowa Code section 714.7D (theft of retail motor fuel) and which was not previously addressed in rule. This item adds paragraph 615.45(1)“b” to align with Iowa Code section 321.215(2), which provides when an applicant is eligible for a temporary restricted license in cases of hardship. This item amends subrule 615.45(2) to clarify how an individual may apply for a temporary restricted license and that an individual requesting a temporary restricted license due to hardship shall self-certify under penalty of perjury that a hardship exists, rather than by affidavit, which avoids the difficulty of finding and appearing before a notary public to complete the application. Item 27 amends subrule 615.45(3) to provide that when a person incurs a moving violation during the required probationary driving period after a suspension, the Department will suspend the person’s license for the length of the original suspension. The rule used to state that the additional suspension period shall be at least 90 days, which sometimes led to individuals being suspended for a greater duration than the original action and resulting suspension (which may have been for 30 days, for example). Imposing a suspension for the length of the original suspension for violating probation is intended to serve as a commensurate consequence to a driver who was subject to a driver’s license suspension and who has been unable to successfully complete the probationary driving period. This item amends subrule 615.45(5) to remove an outdated requirement for a person to appear before a driver’s license examiner in order to obtain a temporary restricted license as the process simply allows for a person to obtain the temporary restricted license by the Department’s usual method, which does not specifically require a driver’s license examiner to perform the transaction as long as the person is eligible under Iowa Code section 321.215. Item 27 also updates paragraph 615.45(4)“c” to strike an outdated reference to the Iowa Code Supplement.

Item 28 amends the implementation sentence at the end of the chapter to strike outdated references to the Iowa Code Supplement, to strike a reference to Iowa Code section 321A.32A, since Iowa Code chapter 321A is already referenced, and to add a reference to Iowa Code section 714.7D.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 20, 2018. The hearing will be canceled without further notice if no one requests the public hearing. Comments should be directed to:

Tracy George  
Department of Transportation  
Strategic Communications and Policy  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

*Public Hearing*

If requested, a hearing to hear oral comments will be held as follows:

February 22, 2018  
10 a.m.  
Iowa DOT  
Motor Vehicle Division  
6310 SE Convenience Boulevard  
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

If the public hearing is requested, any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Rescind the definition of "Conviction free" in rule **761—615.1(321)**.

ITEM 2. Amend rule **761—615.1(321)**, definition of "Moving violation," as follows:

"*Moving violation*," unless otherwise provided in this chapter, means any violation of motor vehicle laws except:

1. Violations of equipment standards to be maintained for motor vehicles.
2. Parking violations as defined in Iowa Code section 321.210.
3. Child restraint and safety belt and harness violations under Iowa Code sections 321.445 and 321.446.
4. Violations of registration, weight and dimension laws.
5. Operating with an expired license.
6. Failure to appear.
7. Disturbing the peace with a motor vehicle.
8. Violations of Iowa Code ~~Supplement~~ section 321.20B for failure to provide proof of financial liability coverage.

ITEM 3. Amend rule 761—615.7(321) as follows:

**761—615.7(321) Cancellations.**

~~615.7(1)~~ The department shall cancel the license of an unmarried minor upon receipt of a written withdrawal of consent from the person who consented to the minor's application. The department shall also cancel a minor's license upon receipt of evidence of the death of the person who consented to the minor's application.

~~615.7(2)~~ The department shall cancel a motorized bicycle license when the licensee is convicted of one moving violation. Reapplication may be made 30 days after the date of cancellation.

~~615.7(3)~~ 615.7(1) The department ~~may~~ shall cancel a license when the person was not entitled or is no longer entitled to a license, failed to give correct and required information, or committed fraud in applying.

615.7(2) The department shall cancel the license for the person's failure to pay the license fee as provided in rule 761—605.9(321).

~~615.7(4)~~ 615.7(3) A cancellation shall begin ten days after the department's notice of cancellation is served.

This rule is intended to implement Iowa Code sections 321.184, 321.185, 321.189, 321.191, 321.201 and 321.215.

ITEM 4. Amend rule 761—615.9(321) as follows:

**761—615.9(321) Habitual offender.**

**615.9(1)** The department shall declare a person to be a habitual offender under Iowa Code subsection 321.555(1) in accordance with the following point system:

a. Points shall be assigned to convictions as follows:

<u>Conviction</u>	<u>Points</u>
Perjury or the making of a false affidavit or statement under oath to the department of public safety	2 points
Driving while under suspension, revocation or denial (except Iowa Code chapter 321J)	2 points
Driving while under Iowa Code chapter 321J revocation or denial	3 points
Driving while barred	4 points
Operating a motor vehicle in violation of Iowa Code section 321J.2	4 points
An offense punishable as a felony under the motor vehicle laws of Iowa or any felony in the commission of which a motor vehicle is used	5 points
Failure to stop and leave information or to render aid as required by Iowa Code sections 321.261 and 321.263	5 points
Eluding or attempting to elude a pursuing law enforcement vehicle in violation of Iowa Code section 321.279	5 points
Serious injury by a vehicle in violation of Iowa Code subsection <del>707.6A(3)</del> <u>707.6A(4)</u>	5 points
Manslaughter resulting from the operation of a motor vehicle	6 points

b. No change.

**615.9(2)** No change.

**615.9(3)** A person declared to be a habitual offender under Iowa Code Supplement section 321.560, ~~unnumbered paragraph 2~~, shall be barred from operating a motor vehicle on the highways of this state beginning on the date the previous bar expires.

This rule is intended to implement Iowa Code sections 321.555, 321.556 and 321.560.



ITEM 5. Amend rule 761—615.11(321) as follows:

**761—615.11(321) Periods of suspension or revocation.**

**615.11(1) Length.** The department shall not suspend or revoke a person’s license for less than 30 days nor for more than one year unless a statute specifies or permits a different period of suspension or revocation.

**615.11(2) Extension of suspension or revocation.** The department shall extend the period of license suspension or revocation for an additional like period or for one year, whichever period is shorter, when the person is convicted of operating a motor vehicle while the person’s license is suspended or revoked, unless a statutory exception applies. If the person’s driving record does not indicate what the original grounds for suspension or revocation were, the period of license suspension or revocation shall not exceed six months.

This rule is intended to implement Iowa Code sections 321.212 and 321.218.

ITEM 6. Amend rule 761—615.12(321) as follows:

**761—615.12(321) Suspension of a habitually reckless or negligent driver.**

**615.12(1)** The department may suspend a person’s license if the person is a habitually reckless or negligent driver of a motor vehicle.

a. No change.

b. *“Contributive or contributed”* means ~~that there is evidence in departmental records that the driver performed an act which resulted in or contributed to an accident, or failed to perform an act which would have avoided or contributed to the avoidance of an accident~~ the same as the definition of “contributive accident” under rule 761—615.1(321).

**615.12(2)** In this rule, ~~the~~ speeding violations specified in Iowa Code ~~paragraph~~ section 321.210(2)“d” and violations under Iowa Code section 321.276 are not included.

**615.12(3)** No change.

This rule is intended to implement Iowa Code section 321.210.

ITEM 7. Amend rule 761—615.13(321) as follows:

**761—615.13(321) Suspension of a habitual violator.**

**615.13(1)** The department ~~may~~ shall suspend a person’s license when the person is a habitual violator of the traffic laws. “Habitual violator” means that the person has been convicted of three or more moving violations committed within a 12-month period.

**615.13(2)** The minimum suspension periods shall be as follows ~~unless reduced by a driver’s license hearing officer based on mitigating circumstances:~~

3 convictions in 12 months	90 days
4 convictions in 12 months	120 days
5 convictions in 12 months	150 days
6 convictions in 12 months	180 days
7 or more convictions in 12 months	1 year

**615.13(3)** In this rule, ~~the~~ speeding violations specified in Iowa Code ~~paragraph~~ section 321.210(2)“d” and violations under Iowa Code section 321.276 are not included.

This rule is intended to implement Iowa Code section 321.210.

ITEM 8. Amend rule 761—615.14(321) as follows:

**761—615.14(321) Suspension for incapability.** The department ~~may~~ shall suspend a person’s license when the person is incapable of safely operating a motor vehicle.

**615.14(1)** Suspension for incapability may be based on one or more of the following:

a. and b. No change.

c. Ineligibility for licensing under Iowa Code ~~subsections~~ sections 321.177(4) to 321.177(7).  
**615.14(2)** and **615.14(3)** No change.

This rule is intended to implement Iowa Code sections 321.177, 321.210, and 321.212.

ITEM 9. Amend rule 761—615.15(321) as follows:

**761—615.15(321) Suspension for unlawful use of a license.**

**615.15(1)** The department ~~may~~ shall suspend a person’s license when the person has been convicted of unlawful or fraudulent use of the license or if the department has received other evidence that the person has violated Iowa Code section 321.216, 321.216A<sub>2</sub>, ~~or~~ 321.216B or 321.216C.

**615.15(2)** and **615.15(3)** No change.

This rule is intended to implement Iowa Code sections 321.210, 321.212, 321.216, 321.216A<sub>2</sub>, ~~and~~ 321.216B and 321.216C.

ITEM 10. Amend rule 761—615.17(321) as follows:

**761—615.17(321) Suspension for a serious violation.**

**615.17(1)** The department ~~may~~ shall suspend a person’s license when the person has committed a serious violation of the motor vehicle laws.

**615.17(2)** “*Serious violation*” means that:

a. No change.

b. The person was convicted of a moving violation which contributed to a fatal motor vehicle accident. “Contributed” ~~is defined in paragraph 615.12(1)“b.”~~ means the same as the definition of “contributive accident” under rule 761—615.1(321). The suspension period shall be at least 120 days.

c. The person was convicted for speeding 25 miles per hour (mph) or more above the legal limit. The minimum suspension period shall be as follows ~~unless reduced by a driver’s license hearing officer based on mitigating circumstances:~~

25 <del>to 29</del> mph over the legal limit	60 days
26 <del>30 to 39</del> mph over the legal limit	65 <del>90</del> days
27 <del>40 to 49</del> mph over the legal limit	70 <del>180</del> days
28 <del>mph over the legal limit</del>	75 <del>days</del>
29 <del>mph over the legal limit</del>	80 <del>days</del>
30 <del>mph over the legal limit</del>	90 <del>days</del>
31 <del>mph over the legal limit</del>	100 <del>days</del>
32 <del>mph over the legal limit</del>	110 <del>days</del>
33 <del>mph over the legal limit</del>	120 <del>days</del>
34 <del>mph over the legal limit</del>	130 <del>days</del>
35 <del>mph over the legal limit</del>	140 <del>days</del>
36 <del>mph over the legal limit</del>	150 <del>days</del>
37 <del>mph over the legal limit</del>	160 <del>days</del>
38 <del>mph over the legal limit</del>	170 <del>days</del>
39 <del>mph over the legal limit</del>	180 <del>days</del>
40 <del>mph over the legal limit</del>	190 <del>days</del>
41 <del>mph over the legal limit</del>	210 <del>days</del>
42 <del>mph over the legal limit</del>	230 <del>days</del>
43 <del>mph over the legal limit</del>	250 <del>days</del>

44 mph over the legal limit	270 days
45 mph over the legal limit	290 days
46 mph over the legal limit	310 days
47 mph over the legal limit	330 days
48 mph over the legal limit	350 days
49 <u>50</u> mph or more over the legal limit	one year

d. The person was convicted of violating Iowa Code ~~subsection~~ section 321.372(3) or a similar ordinance of any political subdivision. The suspension period shall be:

- (1) 30 days for a first conviction ~~under Iowa Code subsection 321.372(3)~~.
- (2) 90 days for a second conviction ~~under Iowa Code subsection 321.372(3)~~.
- (3) 180 days for a third or subsequent conviction ~~under Iowa Code subsection 321.372(3)~~.

e. The person was convicted of violating Iowa Code section 321.323A or a similar ordinance of any political subdivision. The suspension period shall be:

- (1) 90 days for a violation causing property damage only to the property of another person.
- (2) 180 days for a violation causing bodily injury to another person.
- (3) One year for a violation causing death.

This rule is intended to implement Iowa Code sections 321.210, 321.323A, 321.372 ~~as amended by 2012 Iowa Acts, Senate File 2218, sections 2 and 5, and 321.491.~~

ITEM 11. Amend rule 761—615.20(321) as follows:

**761—615.20(321) Suspension for moving violation during driving probation.** The department ~~may~~ shall suspend the license of a person convicted of a moving violation pursuant to Iowa Code section 321.210C. The suspension period shall ~~not exceed~~ be equal in duration to the original period of suspension, revocation or bar, or for one year, whichever is the shorter period.

This rule is intended to implement Iowa Code section 321.210C.

ITEM 12. Amend rule 761—615.21(321) as follows:

**761—615.21(321) Suspension of a minor’s school license and minor’s restricted license.**

**615.21(1) *Suspension of a minor’s school license.***

a. The department ~~may~~ shall suspend a minor’s school license upon receiving notice of the licensee’s conviction for one moving violation or evidence of one or more accidents chargeable to the licensee.

b. The department ~~may~~ shall also suspend a minor’s school license when the department receives written notice from a peace officer, parent, custodian or guardian, school superintendent, or superintendent’s designee that the licensee has violated the restrictions of the license.

c. No change.

**615.21(2) *Suspension of a minor’s restricted license.*** The department ~~may~~ shall suspend a minor’s restricted license upon receiving notice of the licensee’s conviction for one moving violation. The suspension period shall be at least 30 days.

This rule is intended to implement Iowa Code sections 321.178 and 321.194.

ITEM 13. Amend subrule 615.22(1), introductory paragraph, as follows:

**615.22(1)** The department shall suspend a person’s privilege to operate motor vehicles in Iowa when the department is notified by a clerk of the district court ~~on Form No. 431037~~ that the person has been convicted of violating a law regulating the operation of motor vehicles, that the person has failed to pay the fine, penalty, surcharge or court costs arising out of the conviction, and that 60 days have elapsed since the person was mailed a notice of nonpayment from the clerk of the district court.

ITEM 14. Amend rule **761—615.23(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~232.52(2) “a”(4)~~ 232.52(2), 299.1B, 321.213, 321.213A, 321.213B; and 321.215.

ITEM 15. Amend rule 761—615.26(321) as follows:

**761—615.26(321) Suspension or revocation for violation of a license restriction.** The department ~~may shall~~ suspend ~~or revoke~~ a person's license when the department receives satisfactory evidence of a violation of a restriction imposed on the license. The suspension ~~or revocation~~ period shall be at least 30 days. If, prior to the effective date of the suspension, the person provides satisfactory evidence that the restriction is no longer necessary, the department may rescind the license suspension.

This rule is intended to implement Iowa Code section 321.193.

ITEM 16. Amend rule 761—615.30(321) as follows:

**761—615.30(321) Revocation for out-of-state offense.**

~~615.30(1)~~ The department ~~may shall~~ revoke an Iowa resident's license when the department is notified by another state that the person committed an offense in that state ~~which, if committed in Iowa, would be grounds for revocation as provided in Iowa Code section 321.205. The notice may indicate either a conviction or a final administrative decision.~~ The period of the revocation shall be the same as if the offense had occurred in Iowa.

~~615.30(2) Rescinded IAB 11/20/96, effective 12/25/96.~~

This rule is intended to implement Iowa Code section 321.205.

ITEM 17. Amend rule 761—615.32(321) as follows:

**761—615.32(321) Extension of revocation period.** The department shall extend the period of license revocation for an additional like period when the person is convicted of operating a motor vehicle while the person's license is revoked. If the person's driving record does not indicate what the original grounds for revocation were, the period of license revocation shall not exceed six months.

This rule is intended to implement Iowa Code sections ~~321.218 and~~ section 321J.21.

ITEM 18. Amend paragraph **615.38(1)“a”** as follows:

a. License denials, cancellations and suspensions under Iowa Code sections 321.177 to 321.215 and 321A.4 to 321A.11 ~~except denials under Iowa Code subsection 321.177(10) and suspensions under Iowa Code sections 321.210B, 321.210D, 321.213A and 321.213B.~~

ITEM 19. Amend paragraph **615.38(2)“b”** as follows:

b. A request for an informal settlement, a request for a contested case hearing, or an appeal of a presiding officer's decision shall be submitted to the director of ~~the office of driver and identification~~ services at the address in 761—600.2(17A).

ITEM 20. Amend subrule 615.38(3) as follows:

**615.38(3) Informal settlement or hearing.**

a. No change.

b. If the person requests an informal settlement to contest a sanction listed in subrule 615.38(1) for which the basis is a conviction as defined in Iowa Code section 321.1 or a suspension under Iowa Code section 321.210A or 321.210B, the informal settlement shall consist of a review by the department to determine if there was a mistake of fact. For purposes of this rule, “mistake of fact” means a mistake in the identity of the person subject to sanction or a mistake in the driving record.

b. c. ~~Notwithstanding paragraph “a” of this subrule, 615.38(3)“a,”~~ a request received from a person who has participated in a driver improvement interview on the same matter shall be deemed a request for a contested case hearing.

e. d. A request for an informal settlement or a request for a contested case hearing shall be deemed timely submitted if it is delivered to the director of ~~the office of driver and identification~~ services or postmarked within the time period specified in the department's notice of the sanction.

(1) and (2) No change.

e. For a person contesting a sanction listed in subrule 615.38(1) for which the basis is a conviction as defined in Iowa Code section 321.1 or a suspension under Iowa Code section 321.210A or 321.210B,

the issue at the contested case hearing and on appeal shall be limited to a mistake of fact as specified in paragraph 615.38(3) "b."

ITEM 21. Amend rule 761—615.40(321) as follows:

**761—615.40(321) License reinstatement or reissue.** A person who becomes eligible for a license after a denial, cancellation, suspension, revocation, bar or disqualification shall be notified by the department ~~to appear before a driver license examiner~~ that the person is eligible to obtain or reinstate the license. The license may be issued if the person has:

**615.40(1)** No change.

**615.40(2)** Paid the civil penalty when required. The civil penalty is specified in Iowa Code Supplement section 321.218A or 321A.32A.

**615.40(3) to 615.40(6)** No change.

This rule is intended to implement Iowa Code sections 321.186, 321.191, 321.195, 321.208, 321.212, and 321.218A, 321A.17 and ~~Iowa Code Supplement sections 321.218A and 321A.32A.~~

ITEM 22. Amend rule 761—615.41(321) as follows:

**761—615.41(321) Investigation of convictions based on fraud.** A person requesting investigation of fraudulent use of a person's name or other fraudulent identification that resulted in a record of conviction for a scheduled violation under Iowa Code chapter 321 and listed in Iowa Code section 805.8A may submit a written application to the department using Form 420049, ~~Identity Theft Complaint~~. The department shall review the application and may investigate, if appropriate, as required by Iowa Code section 321.200A. Form 420049 may be obtained by contacting the bureau of investigation and identity protection by mail at Bureau of Investigation and Identity Protection, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or on the department's ~~Web site~~ website.

This rule is intended to implement Iowa Code section 321.200A.

ITEM 23. Amend subrule 615.42(1) as follows:

**615.42(1)** ~~The~~ Notwithstanding any other provisions of this chapter to the contrary, the department shall require remedial driver improvement action unless the person's driver's license has been suspended or revoked for the same occurrence when a person holding an instruction permit, an intermediate license or a full-privilege driver's license under Iowa Code section 321.180B is convicted of a moving violation, ~~or~~ has a contributive accident or violates the restrictions of the license and the violation or accident occurred during the term of the instruction permit or intermediate license.

ITEM 24. Amend subrule 615.42(2) as follows:

**615.42(2)** Completion of remedial driver improvement action means any or all of the following as determined by the department: suspension, remedial driver improvement program, safety advisory letter, additional restriction(s), vision screening, knowledge examination, and driving examination.

ITEM 25. Amend rule 761—615.43(321) as follows:

**761—615.43(321) Driver improvement program.**

**615.43(1)** *When required.*

a. ~~In~~ Notwithstanding any other provisions of this chapter to the contrary, in lieu of suspension, the department may require the following persons to attend and successfully complete, at the person's own expense, a driver improvement program approved by the department:

(1) No change.

(2) A person who is convicted of a first offense for speeding at least 25 but not more than 29 miles per hour or more over the legal limit.

(3) A person whose license is subject to suspension or revocation under Iowa Code section 321.210C.

(4) A person who is convicted of a first offense violation of Iowa Code section 321.372(3) or similar ordinance of any political subdivision.

(5) A person who is convicted of a first offense violation of Iowa Code section 321.323A or a similar ordinance of any political subdivision.

(6) A person who is subject to suspension for a first offense under paragraph 615.17(2) “a” or “b.”  
b. However, a person shall not be assigned to a driver improvement program more than once within a any two-year period. Upon expiration of the previous two-year period, a person is eligible to again be assigned to a driver improvement program.

**615.43(2)** No change.

**615.43(3) Probation.** When a person is required to attend and successfully complete a driver improvement program, the department shall also require the person to complete a probationary driving period not to exceed one year. One conviction for a moving violation committed during probation ~~may shall~~ result in suspension of the person’s license. The suspension period shall be at least 90 days, unless reduced by a driver’s license hearing officer based on mitigating circumstances the length of the original suspension.

**615.43(4) Failure to attend.** The department shall suspend the license of a person who is required to attend a driver improvement program and who does not attend, or does not successfully complete, the program. The suspension period shall be at least the length of the original suspension, but not less than 90 days.

This rule is intended to implement Iowa Code sections 321.210 and 321.210C.

ITEM 26. Rescind and reserve rule **761—615.44(321)**.

ITEM 27. Amend rule 761—615.45(321) as follows:

**761—615.45(321) Temporary restricted license (work permit).**

**615.45(1) ~~Ineligibility~~ Eligibility.** The department shall not may issue a temporary restricted license as provided under Iowa Code subsection 321.215(1) to an applicant: section 321.215. Temporary restricted licenses issued under Iowa Code chapter 321J are addressed in rule 761—620.3(321J).

a. The department shall not issue a temporary restricted license under Iowa Code section 321.215(1) to an applicant:

(1) Whose license has been denied or canceled.

~~b.~~ (2) Whose license has been suspended for incapability.

~~c.~~ (3) Whose license has been suspended for noncompliance with the financial responsibility law.

~~d.~~ (4) Whose minor’s school license or minor’s restricted license has been suspended or revoked.

~~e.~~ (5) Whose license has been suspended for failure to pay a fine, penalty, surcharge or court costs.

~~f.~~ (6) Whose period of suspension or revocation has been extended for operating a motor vehicle while under suspension or revocation unless the underlying suspension or revocation qualifies for issuance of a temporary restricted license.

~~g.~~ (7) Whose license has been mandatorily revoked under Iowa Code section 321.209, subsections 1 to 5 or subsection 7, or for a second or subsequent conviction for drag racing.

~~h.~~ (8) Whose license has been suspended under the nonresident violator compact.

~~i.~~ (9) ~~Who~~ Whose license is barred under Iowa Code section 321.560.

~~j.~~ (10) Whose license has been suspended or revoked for a drug or drug-related offense.

~~k.~~ (11) Whose license has been suspended due to receipt of a certificate of noncompliance from the child support recovery unit.

~~l.~~ (12) Whose license has been suspended due to receipt of a certificate of noncompliance from the college student aid commission.

~~m.~~ (13) Whose license has been suspended for a charge of vehicular homicide.

~~n.~~ (14) ~~Who~~ Whose license has been suspended under Iowa Code subsection 321.180B(3).

(15) Whose license has been suspended under Iowa Code section 714.7D.

b. Notwithstanding paragraph 615.45(1) “a,” the department may issue a temporary restricted license under Iowa Code section 321.215(2) in cases of hardship to an applicant:

(1) Whose license has been suspended for failure to pay a fine, penalty, surcharge or court costs.

- (2) Whose license has been mandatorily revoked under Iowa Code section 321.209(5).
- (3) Whose license has been suspended under the nonresident violator compact.
- (4) Whose license is barred under Iowa Code section 321.560, based solely on offenses enumerated in Iowa Code section 321.555(1)“c” or 321.555(2).
- (5) Whose license has been suspended or revoked for a drug or drug-related offense.
- (6) Whose license has been suspended under Iowa Code section 714.7D.
- (7) Whose license has been suspended under Iowa Code section 321.210(1)“a,” except the department shall not issue a temporary restricted license for suspensions under Iowa Code section 321.210(1)“a”(3).

**615.45(2) Application.**

*a.* To obtain a temporary restricted license, an applicant shall complete and submit a written request for an interview with a driver’s license hearing officer. The request shall be submitted Form 430100 and any supporting documentation to the office of driver and identification services at the address in 761—600.2(17A).

*b.* ~~If the driver’s license hearing officer approves the issuance of a temporary restricted license, the officer shall furnish to the applicant application Form 430100, which is to be completed and submitted to the office of driver services.~~

*e. b.* A temporary restricted license issued for employment may include permission for the licensee to transport dependent children to and from a location for child care when that activity is essential to continuation of the licensee’s employment.

*c.* An applicant for a temporary restricted license under paragraph 615.45(1)“b” shall certify under penalty of perjury that the license is requested due to hardship. Hardship includes, but is not limited to, circumstances where alternative means of transportation do not exist.

**615.45(3) Statements.** A person applying for a temporary restricted license shall submit all of the following statements that apply to the person’s situation. Each statement shall explain the need for the license and shall list specific places and times for the activity which can be verified by the department.

*a.* A statement from the applicant, including whether the temporary restricted license is requested due to hardship, if applicable.

*b. to g.* No change.

**615.45(4) Additional requirements.** An applicant for a temporary restricted license shall also:

*a. and b.* No change.

*c.* Pay the required civil penalty specified in Iowa Code ~~Supplement~~ section 321.218A or 321A.32A.

**615.45(5) Issuance and restrictions.**

*a.* When the application is approved and all requirements are met, the applicant shall be notified by the department ~~to appear before a driver’s license examiner.~~ The applicant shall pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license. An Iowa resident shall also pay the reinstatement and license fees.

*b.* No change.

**615.45(6)** No change.

ITEM 28. Amend **761—Chapter 615**, implementation sentence, as follows:

~~These rules are~~ This rule is intended to implement Iowa Code chapter 321A and sections 252J.8, 321.177, 321.178, 321.184, 321.185, 321.186, 321.189, 321.191, 321.193, 321.194, 321.201, 321.205, 321.209, 321.210, 321.210A, 321.212, 321.213A, 321.213B, 321.215, 321.218, 321.218A, 321.513, ~~and~~ 321.560 and Iowa Code ~~Supplement~~ sections 321.218A and 321A.32A 714.7D.