

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to driver’s license 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 and 321.210.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.210, 321.215, 321.216C, 321.555 and 321J.17.

Purpose and Summary

This proposed rule making conforms Chapter 615 with current Department practice and legal authority and aligns the rules with 2020 Iowa Acts, Senate File 2268, which amended Iowa Code section 321.216C, and 2020 Iowa Acts, Senate File 457, section 54, which repealed two Iowa Code sections. Senate File 2268 raised from 18 years to 21 years old the age at which it is illegal for a person to possess fraudulent identification for the purposes of purchasing tobacco products. Senate File 457, section 54, repealed Iowa Code sections 321.218A and 321A.32A to eliminate the civil penalty for non-operating while intoxicated (OWI) driver’s license sanctions.

The proposed amendments add a nonpublic school authority to the list of persons authorized to report a violation of a minor’s school license because that is the person authorized to certify the need for a minor’s school license for a student attending private school.

The proposed amendments specify that the driver improvement program provider schedules a person’s attendance at a driver improvement program, which is current Department practice, and also clarify that if a person assigned to a driver improvement program fails to attend, that person will be issued a driver’s license suspension equal to the required suspension length for the underlying offense. The current rule requires a 90-day suspension for a person who fails to attend a driver improvement program, but a 90-day suspension could result in a longer or shorter suspension period than what the original underlying offense would have otherwise required. Making the suspension period after a person fails to attend a driver improvement program equal to the length of the original suspension is more equitable than requiring a longer or shorter suspension period than that required for the original offense.

This proposed rule making rescinds the rule which authorizes the Department to conduct a driver improvement interview because that process is no longer used by the Department and was replaced with the informal administrative appeal process.

The proposed amendments addressing temporary restricted licenses (TRLs) issued under Iowa Code section 321.215 align with current Department practice to allow a TRL unless prohibited by Iowa Code section 321.215 or by another Iowa Code section. The proposed amendments more clearly reflect the Department’s existing practice of allowing a TRL when a license is suspended because of nonpayment of court fines, violations of the nonresident violator compact or habitual offender bars if the person’s habitual offender status is determined under Iowa Code section 321.555(1)“c” or 321.555(2). The changes allow a person whose driver’s license is suspended or revoked for driving while under suspension or revocation to be eligible for a TRL if the person’s underlying offense qualifies for a TRL. Allowing a TRL in this case is consistent with how sanctions for driving with a revoked license are treated under Iowa Code chapter 321J when the underlying offense is an OWI.

Finally, the proposed amendments strike outdated requirements related to requesting an interview with a driver's license hearing officer and appearing before a driver's license examiner to obtain a TRL. Current Department practice does not require an interview or personal appearance before a specific classification of employee to obtain a TRL.

Fiscal Impact

There is no fiscal impact to the State of Iowa because of this rule making beyond what was estimated in the fiscal note for 2020 Iowa Acts, Senate File 457.

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 2, 2021. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on February 4, 2021, via conference call from 10:30 to 11:30 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on February 2, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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.

Any persons who intend to attend the public 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.

The public hearing will be canceled without further notice if no oral presentation is requested.

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. Amend rule 761—615.3(17A) as follows:

761—615.3(17A) Information and address. Applications, forms and information concerning license sanctions are available at any driver’s license service center. Assistance is also available by mail from the Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department’s website at www.iowadot.gov.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 2. 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 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, 321.216A₂, ~~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, 321.216A₂, ~~and 321.216B and 321.216C~~.

ITEM 3. Amend paragraph **615.21(1)“b”** as follows:

b. The department may 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 or nonpublic school authority that the licensee has violated the restrictions of the license.

ITEM 4. Amend rule 761—615.26(321) as follows:

761—615.26(321) Suspension ~~or revocation~~ for violation of a license restriction. The department may 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.

This rule is intended to implement Iowa Code section 321.193.

ITEM 5. 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 driver and identification services bureau at the address in rule 761—615.3(17A).

ITEM 6. Amend paragraph **615.38(3)“c,”** introductory paragraph, as follows:

c. 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 driver and identification services bureau or postmarked within the time period specified in the department’s notice of the sanction.

ITEM 7. Amend subrule 615.40(2) as follows:

615.40(2) Paid the civil penalty when required by Iowa Code section 321J.17. ~~The civil penalty is specified in Iowa Code section 321.218A or 321A.32A.~~

ITEM 8. Amend rule **761—615.40(321)**, implementation sentence, as follows:

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

ITEM 9. Amend subrule 615.43(2) as follows:

615.43(2) Scheduling. The department shall ~~schedule attendance at a program nearest~~ forward the person’s contact information to the approved driver improvement program provider nearest the person’s last known address. The provider will schedule the person’s attendance at the provider’s next available program opening.

a. One request for rescheduling may be granted by the provider if the program begins within 30 days of the originally scheduled date and if space is available.

b. No change.

ITEM 10. Amend subrule 615.43(4) as follows:

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 90 days for the length of the original underlying suspension.

ITEM 11. Rescind and reserve rule **761—615.44(321)**.

ITEM 12. Amend rule 761—615.45(321) as follows:

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

615.45(1) Ineligibility. The department shall not issue a temporary restricted license under Iowa Code section ~~321.215(4)~~ 321.215 to an applicant:

a. to d. No change.

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

~~f. e.~~ 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. f.~~ Whose license has been mandatorily revoked under Iowa Code section 321.209, subsections 1 to 5 4 or subsection 7, or for a second or subsequent conviction for drag racing.

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

~~i. g.~~ Whose license is barred under Iowa Code section 321.560 unless the applicant is declared to be a habitual offender under Iowa Code section 321.555(1) "c" or 321.555(2).

~~j. h.~~ Whose license has been suspended due to receipt of a certificate of noncompliance from the child support recovery unit.

~~k. Reserved.~~

~~l. i.~~ Whose license has been suspended for a charge of vehicular homicide.

~~m. j.~~ Whose license has been suspended under Iowa Code section 321.180B(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 driver and identification services bureau at the address in rule 761—615.3(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 driver and identification 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.

615.45(3) 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 when required by Iowa Code section ~~321.218A or 321A.32A~~ 321J.17.

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.

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 321J.17.