

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to financial responsibility

The Transportation Department hereby rescinds Chapter 640, “Financial Responsibility,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 307.12(1)“j” and 321A.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 321A and sections 321.266, 321.269 and 321.493.

Purpose and Summary

This rulemaking repromulgates Chapter 640 in compliance with Executive Order 10. Chapter 640 implements Iowa Code section 321A.2 and explains the financial responsibility requirements following an accident involving an uninsured driver or vehicle and how vehicle operators and owners can satisfy the requirements or meet an exception.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024, as **ARC 8336C**. Two public hearings were held on the following date(s):

- December 5, 2024

The Department received oral and written clarifying questions from Emily Gamb, Acuity Insurance. The Department answered her questions. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on January 21, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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).

Effective Date

This rulemaking will become effective on March 26, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 761—Chapter 640 and adopt the following **new** chapter in lieu thereof:

CHAPTER 640
FINANCIAL RESPONSIBILITY

761—640.1(321A) General.

640.1(1) Definitions. The definitions contained in Iowa Code section 321A.1 are hereby adopted. In addition:

“*License*” means “driver’s license” as defined in Iowa Code section 321.1(20A) unless the context otherwise requires.

“*Security*” means an amount of money sufficient in the determination of the department to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against an operator or owner. Security is subject to the limitations and requirements of Iowa Code sections 321A.5 and 321A.9.

640.1(2) Exceptions. Except for accident reporting requirements, this chapter does not apply to the owners or operators of motor vehicles excepted by Iowa Code section 321A.33. To establish availability of an exception, a person required to show proof is to submit to the department a letter from the owner of the motor vehicle authorizing the person to use the motor vehicle.

640.1(3) Submissions. Except as otherwise provided in this chapter, required submissions are to be either mailed to the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; emailed to accident.support@iowadot.us; or sent by facsimile to 515.239.1837.

This rule is intended to implement Iowa Code sections 321A.1, 321A.2 and 321A.33.

761—640.2(17A,321A) Hearing and appeal process. A person who is aggrieved by an action of the department implementing Iowa Code sections 321A.4 through 321A.11 may contest the action in accordance with rule 761—615.38(17A,321). The administrative law judge in a contested case hearing may subpoena witnesses and conduct any investigation deemed necessary to:

640.2(1) Determine if the person is properly identified with the accident.

640.2(2) Determine if there is any reasonable possibility that judgment could be rendered against the person.

640.2(3) Determine if the person is entitled to any exceptions provided by law.

640.2(4) Determine if the security required following an accident is reasonable and make adjustments deemed necessary or proper.

This rule is intended to implement Iowa Code chapter 17A and section 321A.2.

761—640.3(321,321A) Accident reporting requirements. Accident reporting requirements are specified in Iowa Code section 321.266 and on Form 433002, “Iowa Accident Report Form,” which is available from law enforcement officers, driver’s license service centers, or the motor vehicle division at the address in subrule 640.1(3).

This rule is intended to implement Iowa Code sections 321.266, 321.269 and 321A.4.

761—640.4(321A) Security required following accident. Following an accident, security is required pursuant to Iowa Code section 321A.5. For the purposes of determining the 60-day time frame under Iowa Code section 321A.5(1), a “report of a motor vehicle accident” includes a new or amended law enforcement officer accident report submitted to the department under Iowa Code section 321.266(3); a new or amended driver accident report, Form 433002, submitted to the department under Iowa Code section 321.266(2); any supplemental report submitted to the department under Iowa Code section

321.267; proof of transfer of ownership of a vehicle involved in the accident that occurred prior to the date of the accident; proof of identity of a driver incorrectly identified in an initial accident report; or proof of loss submitted by an insurance carrier authorized to transact insurance business in Iowa or its authorized subrogation provider. Nothing in this rule is to be construed to extend the duration of a suspension issued under Iowa Code section 321A.5 beyond the period authorized in Iowa Code section 321A.7.

640.4(1) Suspension.

a. If the security requirements of Iowa Code section 321A.5 are not met, the department shall suspend all licenses of the driver and all registrations of the owner.

b. The suspension takes effect 30 days after a suspension notice is served pursuant to rule 761—615.37(321). The notice is to inform the person of the amount of security required. The duration of the suspension is provided in Iowa Code section 321A.7.

640.4(2) Security—amounts and type.

a. The amount of security required of the uninsured driver and owner is to be determined from reports of the drivers involved in the accident, reports of investigating officers, and supplemental information obtained from persons involved in the accident concerning amounts of damage and injury sustained. Form 431074, “Insurance Request Letter,” may be mailed to parties to the accident for supplemental information. The security required may be reduced after the notice has been served if evidence of exact costs is submitted to the department. The amount of security shall not exceed the minimum limits of liability for death or injury specified in Iowa Code chapter 321A.

b. The security is to be deposited with the department at the address in subrule 640.1(3) in one of the following forms:

(1) Cash.

(2) Cashier’s check, certified check, bank draft, or postal money order payable to: Treasurer, State of Iowa.

(3) Surety bond issued by a company authorized to transact insurance business in Iowa pursuant to Iowa Code section 321A.24.

640.4(3) Security disposition.

a. Security is held by the state treasurer and can be released only for payment of a judgment or as otherwise provided in Iowa Code section 321A.10; by a court, including by Form 431097, “Order for Release of Security”; or by Form 433010, “Assignment and Release.”

b. The security can be refunded at any time as follows:

(1) When compliance as provided in subrule 640.4(5) is presented to the motor vehicle division at the address in subrule 640.1(3); or

(2) When, after one year has elapsed from the date of the accident, Form 433007, “Affidavit for Reinstatement or Refund of Security,” is completed by the depositor; the form indicates that no action has been initiated or judgment rendered; and the form is submitted to the motor vehicle division. Upon receipt of the form, the motor vehicle division may confirm the facts contained therein with the district court of the county where the accident occurred or any other court of competent jurisdiction.

640.4(4) Exceptions to requirement of security. A person who qualifies for an exception under Iowa Code section 321A.6(3), 321A.6(4) or 321A.7(3) must submit proof to the department at the address in subrule 640.1(3) showing that the person qualifies for the applicable exception as follows:

a. *General release from liability.* A qualified person is to submit Form 431036, “General Release.” The signature of the party giving the release is to be notarized or witnessed by a disinterested person. The release is to be accompanied by a power of attorney or subrogation authority if signed by a person other than the party sustaining damage or injury. If the party giving release is a minor, the release is to be signed by the parent or legal guardian of the minor. The department may accept an equivalent alternative form to prove a person’s general release from liability.

b. *Duly acknowledged written agreement release.* A qualified person is to submit Form 181301, “Agreement.” Complete information is to be provided on the form including the total amount of settlement agreed upon by the parties involved and a release of liability upon fulfillment of payments. The signatures of all parties to the agreement are to be notarized. The release is to be accompanied by a

power of attorney or subrogation authority if signed by a person other than a party sustaining damage or injury. If the party giving release is a minor, the release is to be signed by the parent or legal guardian of the minor. This documentation demonstrates compliance only for a party who has agreed to make payment and whose signature appears on the agreement release. The department may accept an equivalent alternative form to prove that a person has executed a duly acknowledged written agreement.

c. Court-certified confession of judgment. A qualified person is to submit a court-certified copy of a confession of judgment, including the total sum to be paid, the payment schedule agreed to by the parties, the signature of both parties, and proof of loss if the judgment is to be paid to a subrogation authority.

d. Accord and satisfaction. A qualified person is to submit documentation that one party to an accident or the party's insurance carrier has accepted liability for the accident and has compensated the other party to the accident for damages and injuries. This documentation does not demonstrate compliance for a third party.

e. Covenant not to sue. A qualified person is to submit documentation of a covenant not to sue that is given to a party to an accident as compliance by another party to the accident when a release would damage any claim against a third party.

f. Proof of no-fault or no reasonable possibility of judgment. A qualified person is to submit proof that the person is not at fault for the accident or that there is no reasonable possibility of judgment being rendered against a person in any of the following ways:

- (1) The investigating officer's report of the accident indicates the other driver caused the accident.
- (2) The other driver admits causing the accident.
- (3) Witness statements indicate the other driver caused the accident.
- (4) The other driver is convicted of a violation that caused the accident.

g. Adjudication of nonliability. A qualified person is to submit a certified copy of a final court judgment that is rendered in a civil damage action resulting from the accident and that relieves the person of any obligation to pay damages.

h. Bankruptcy. A qualified person is to submit a copy of the decree for bankruptcy showing that all possible claims against the person arising from the accident have been scheduled in the bankruptcy decree.

i. Owner exception under Iowa Code section 321A.6(3). A qualified vehicle owner is to submit documentation that the vehicle was being operated at the time of an accident without the owner's permission, express or implied. This exception does not apply to a person who was driving the vehicle at the time of the accident. Acceptable documentation includes the following:

- (1) A police report indicating the vehicle was stolen.
- (2) Proof of the driver's conviction of operating the vehicle without the owner's consent at the time of the accident.
- (3) A sworn affidavit that the vehicle was being operated without permission at the time of the accident.
- (4) A witness affidavit that the driver had been denied use of the vehicle.

j. Owner exception for vehicle sale. A qualified vehicle owner is to submit documentation that the vehicle owner had sold the vehicle involved in the accident and the title had been reassigned to the new owner but that departmental records did not yet show that the title had been transferred when the accident occurred. This exception does not apply to a person who was driving the vehicle at the time of the accident. Acceptable documentation includes the following:

(1) Form 431125, "Affidavit of Seller," completed by both the buyer and seller with signatures notarized or attested to by a member of the department unless the seller certifies under penalty of perjury that the buyer's signature could not be obtained and provides evidence to the satisfaction of the department that supports this certification.

(2) A sworn affidavit by the seller and witnesses to the sale, if any, that the vehicle had been sold, including a description of the vehicle, the date of the sale, the monetary consideration, facts concerning the assignment of title and delivery of possession, and the names of witnesses to the sale, if any.

k. Owner exception for vehicle transfer. A qualified vehicle owner is to submit certified copies of any court order by which ownership of a vehicle was awarded to another party prior to the date of the accident. This exception does not apply to a person who was driving the vehicle at the time of the accident.

This rule is intended to implement Iowa Code sections 321A.4 through 321A.11 and 321A.31.

761—640.5(321A) Judgments. A suspension of license and registrations is required under Iowa Code section 321A.13 when the department receives from the clerk of court a certification of judgment that has remained unsatisfied for at least 60 days pursuant to Iowa Code section 321A.12. Form 431126, “Certification of Judgment,” may be used by the clerk of court to report a certified judgment to the department.

640.5(1) Suspension. The suspension becomes effective on the date the suspension notice is served pursuant to rule 761—615.37(321). The notice is to inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until the judgment is satisfied and proof of financial responsibility is shown. The duration of the suspension is provided in Iowa Code section 321A.14.

640.5(2) Suspension—exceptions. A person who qualifies for an exception under Iowa Code section 321A.13, 321A.14 or 321A.16 must submit proof to the department at the address in subrule 640.1(3) that the person qualifies for the applicable exception in one of the following ways:

a. Creditor’s consent. To qualify for this exception, the judgment debtor must obtain written consent from the judgment creditor for issuance of the debtor’s license and registrations while paying the judgment. If this consent is withdrawn, a new suspension is required in accordance with subrule 640.5(1).

b. Satisfaction of judgment. To qualify for this exception, the judgment debtor must submit a certificate of satisfaction or receipt for payment of the judgment from the clerk of court.

c. Bankruptcy. To qualify for this exception, the judgment debtor must submit a copy of the decree for bankruptcy that includes the judgment debt.

d. Court order for installment payments. To qualify for this exception, the judgment debtor must submit a court order authorizing payment of the judgment in installments. A new suspension, as provided in subrule 640.5(1), is required when the department receives notice of a default in the payments. The default suspension is to continue until the judgment is satisfied or a new court order authorizing payment of the judgment in installments is received.

e. Insurance coverage exception. To qualify for this exception, the judgment debtor who held effective liability insurance coverage at the time of the accident from which the judgment was rendered is to submit a copy of the insurance policy and a letter from the insurance carrier confirming that the insurance carrier was authorized to issue liability insurance, that the insurance carrier did provide coverage for the debtor in amounts required by the financial responsibility law, and the reason why the insurance carrier has not paid such judgment.

This rule is intended to implement Iowa Code sections 321A.12 through 321A.29 and 321A.31.

761—640.6(321A) Proof of financial responsibility. Proof of financial responsibility is required pursuant to Iowa Code sections 321A.13, 321A.14, 321A.16 and 321A.17. A person’s driver’s license or nonresident operating privilege remains suspended or revoked until the person has filed proof of financial responsibility with the department. In addition, a person’s motor vehicle registrations remain suspended until the person has filed with the department proof of financial responsibility for all motor vehicles registered to that person.

640.6(1) Duration of proof of financial responsibility. Proof of financial responsibility is required for two years starting on the effective date of the person’s last suspension or revocation that qualifies under Iowa Code section 321A.17.

640.6(2) Methods of giving proof of financial responsibility.

a. Proof of financial responsibility may be shown by a liability insurance certificate pursuant to Iowa Code section 321A.19 on Form SR-22, “AAMVA Uniform Financial Responsibility Form,” in paper or electronic format approved by the department. The form may include an owner’s or operator’s policy and effective date and is to identify the policyholder by name, address, driver’s license number

and birth date; the vehicles covered are to be identified by year, make, model and vehicle identification number. The form is to be certified in accordance with the Iowa financial responsibility law by an insurance carrier authorized to transact insurance business in Iowa or by an insurance carrier authorized by power of attorney. The policy is to be canceled only as provided in Iowa Code section 321A.22. Certification of coverage for an owner's policy authorizes the policyholder to have registrations for the described vehicles. Certification of coverage for an operator's policy does not authorize registrations.

b. Proof of financial responsibility may be given for a person who is an operator in the employ of the owner of the motor vehicle, or who is a member of the immediate family or household of the owner pursuant to Iowa Code section 321A.26, if the owner's insurance carrier certifies for the person required to show proof of financial responsibility. In addition to the requirements in paragraph 640.6(2) "a," the proof of financial responsibility is to identify both the policyholder and the person for whom proof of financial responsibility is given. This certification does not authorize the person required to give proof of financial responsibility to register a motor vehicle.

c. Proof of financial responsibility may be given for a person who is an operator in the employ of an owner of a fleet of motor vehicles if the owner's insurance carrier certifies for the person required to show proof of financial responsibility. Form SR-23, "AAMVA Uniform Financial Responsibility Form," is required in paper or electronic format approved by the department. The form is to identify the policyholder's name and address, policy number, policy dates and effective date. This certification does not authorize the person required to give proof of financial responsibility to register a motor vehicle.

d. Proof of financial responsibility may be given for a person who is an operator in the employ of an owner who has qualified as a self-insurer pursuant to Iowa Code section 321A.34. A certificate of self-insurance may be issued by the department to a person in whose name more than 25 vehicles are registered and who submits a financial statement that is found to be satisfactory to the department. Form SR-1, "Application for Self-Insurance," is to be completed and submitted to the department with a list of all the owner's motor vehicles registered in Iowa identified by make, year, model and vehicle identification number. When the application is approved, the department shall issue Form SR-2, "Self-Insurance Certificate." Failure to pay a judgment pursuant to Iowa Code section 321A.34 or failure to submit an annual financial statement is reasonable grounds for cancellation of the certificate.

640.6(3) *Proof of financial responsibility restriction.* When a person has filed satisfactory proof of financial responsibility in accordance with subrule 640.6(2), and applies for and is otherwise eligible for a driver's license, the department will issue the driver's license with the restriction code as described in 761—subrule 605.8(1).

640.6(4) *Terminating the suspension upon filing of proof of financial responsibility.* When proof of financial responsibility is provided under subrule 640.6(2) and the person is otherwise eligible for licensing or registration, the department will issue a notice terminating the suspension to the person whose privileges were suspended under Iowa Code section 321A.13, 321A.14, 321A.16 or 321A.17 or rule 761—640.5(321A) or 761—640.6(321A). The person's operating and registration privileges are restricted to the motor vehicles covered under the proof of financial responsibility filed by the applicant, except that a person required to give proof of financial responsibility who holds proof of financial responsibility as an operator may operate a nonowned vehicle provided the owner of that vehicle has liability coverage required under Iowa Code chapter 321A.

640.6(5) *Cancellation of proof of financial responsibility.* A cancellation pursuant to Iowa Code section 321A.22 is to be certified by an authorized insurance carrier representative on Form SR-26, "AAMVA Uniform Financial Responsibility Form," in paper or electronic format approved by the department. The form is to include the name and driver's license number of the policy owner, number of the policy to be canceled and effective date of cancellation.

640.6(6) *Suspension when proof of financial responsibility is canceled.*

a. When a person's proof of financial responsibility is canceled, the person is to immediately refile proof of financial responsibility or surrender the license and registrations to the department.

b. If the person fails to refile proof of financial responsibility, a suspension notice is to be served in accordance with rule 761—615.37(321). The suspension takes effect the date the notice is served. The

notice is to inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until proof of financial responsibility is refilled.

640.6(7) *Terminating the proof of financial responsibility requirement.* A notice terminating the requirement to maintain proof of financial responsibility is to be issued to a person who has satisfied proof of financial responsibility requirements pursuant to Iowa Code section 321A.29. If the person's driver's license is still valid, the person may obtain a duplicate driver's license without the restriction under subrule 640.6(3).

640.6(8) *Electronic submission of proof of financial responsibility and cancellation of proof of financial responsibility.* An insurance carrier authorized to transact business in the state of Iowa is to electronically submit proof of financial responsibility and cancellation of proof of financial responsibility in a format approved by the department. No paper submissions of such proof will be accepted by the department from the insurance carrier.

This rule is intended to implement Iowa Code sections 321A.12 through 321A.29, 321A.31 and 321A.34.

761—640.7(321,321A) Transfer of suspended registration. A person whose motor vehicle registration privileges have been suspended may make a bona fide sale pursuant to Iowa Code sections 321.493 and 321A.30. The department will release the suspended registration to permit the registration of the motor vehicle by the purchaser when presented with either the seller's sworn statement on Form 411107, "Notice of Sale of Vehicle and Delivery of Title," or confirmation from the county treasurer that the sale has been made and release of the registration is necessary to complete the transfer of title.

This rule is intended to implement Iowa Code sections 321.493 and 321A.30.

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