

**321.200A Convictions based upon fraud.**

1. If a person discovers a record of conviction for a scheduled violation under this chapter was entered by fraudulent use of the person's name or by use of other fraudulent identification, the person may, within one year of the date of the discovery of the conviction, submit a written application to the department to investigate the allegation. The department may summarily reject the application as submitted or proceed to investigate the application. If the department investigates the application, the department may either deny the application or, if the department determines the allegation is warranted, approve the application. If the department investigates the application, the department shall also issue a report and findings with the decision of the department. The rejection, approval, or denial of an application is not subject to contested case proceedings or further review as provided in chapter 17A. If the application is investigated, the department shall provide the applicant with a certified copy of the decision of the department. If the department approves the application, the department shall also provide the applicant with a certified copy of the investigative report and findings. The department shall also provide certified copies of the department's decision approving or denying the application together with the investigative report and findings to the appropriate prosecuting attorney in the city or county that prosecuted the scheduled violation and to the district court in the county that prosecuted the scheduled violation. The department may electronically provide copies of any decision approving or denying the application and the investigative report and findings to the district court.

2. A person who discovers that a record of conviction for a scheduled violation under this chapter was entered by fraudulent use of the person's name or by use of other fraudulent identification may bypass the application process in subsection 1 and move in district court to set aside the judgment of conviction within one year of discovery of the conviction. An applicant with an approved application under subsection 1 shall also move in district court to set aside the judgment of conviction in order to have the department expunge or alter the records of the department or rescind or modify an administrative sanction. If the district court grants the motion to set aside the judgment, the district court shall order the charging agency or official to modify the records of the agency or official to reflect the order setting aside the judgment. The clerk of the district court shall provide the court order setting aside the judgment, either by regular mail or electronic means, to the charging agency or official, and the department of transportation. The clerk of the district court shall also provide the applicant with a certified copy of the court order at no cost to the applicant.

3. Notwithstanding the department's approval of an application pursuant to subsection 1, the department shall not expunge or alter the records of the department or rescind or modify an administrative sanction unless the department receives an order from the district court setting aside the previous judgment of the court as provided in subsection 2. Upon receiving a copy of an order from the district court setting aside the previous judgment of the court, the department shall expunge the record and shall rescind any administrative sanction imposed upon the applicant as a result of the judgment, unless the applicant is subject to sanctions for other reasons. The department may impose a new sanction if expunging the judgment would result in a lesser or different sanction.

4. The department shall adopt rules pursuant to chapter 17A to implement this section.

2009 Acts, ch 124, §2

Referred to in §811.9