

CHAPTER 620
OWI AND IMPLIED CONSENT
[Prior to 6/3/87, Transportation Department[820]—(07,C)Ch 11]

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/18/30

761—620.1(321J) Definitions.

“Final compliance report” means a report as described in Iowa Code section 321J.17A(3).

“Medical doctor” for purposes of this chapter means a licensed physician under Iowa Code chapter 148 (doctor of medicine or osteopathy) or the equivalent licensed in another state.

“Violation” means a violation as described in Iowa Code section 321J.17A(4).

“Violation occurrence” means an occurrence as described in Iowa Code section 321J.17A(1). A “violation occurrence” as described in Iowa Code section 321J.17A(1) “d” does not include when the ignition interlock device is transferred to a different vehicle.

[ARC 9267C, IAB 5/14/25, effective 6/18/25]

761—620.2(307,321J) Information and location. Information relating to this chapter is available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at 515.244.9124; by email at driver.services@iowadot.us; or by facsimile at 515.239.1837.

[ARC 9267C, IAB 5/14/25, effective 6/18/25]

761—620.3(307,321,321J) Issuance of temporary restricted license.

620.3(1) Application. An application for a temporary restricted license may be submitted, at any time before or during the revocation period, by completing Form 430400. The application form should be furnished by the arresting officer. It may also be obtained upon oral or written request to the motor vehicle division in person or by mail at the address in rule 761—620.2(307,321J) or online at www.iowadot.gov/mvd/driverslicense/suspensions-and-revocations.

620.3(2) Additional requirements. A person applying for a temporary restricted license will comply with all of the following requirements:

- a. Submit proof of financial responsibility under Iowa Code chapter 321A for all motor vehicles owned or operated under the temporary restricted license.
- b. Provide certification of installation of an approved ignition interlock device on each vehicle required pursuant to Iowa Code section 321J.20(2).
- c. Pay the \$200 civil penalty.
- d. Pay the applicable reinstatement and license fees.
- e. Pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license.

620.3(3) Medical certification and waiver.

a. Upon certification from a medical doctor provided to the department on Form 430034, the minimum breath sampling size on an ignition interlock device may be lowered by the ignition interlock device provider to a level permissible under the National Highway Traffic Safety Administration’s Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) as published in the Federal Register, Vol. 78, May 8, 2013, pages 26849 – 26867.

b. Upon certification from a medical doctor provided to the department on Form 430034, the requirement to install an ignition interlock device as a condition of a temporary restricted license may be waived by the department if the applicant has a verifiable medical condition rendering the applicant incapable of providing a deep lung breath sample necessary for analysis by an ignition interlock device at either the standard level or lower level specified in the BAIIDs.

c. A temporary restricted license issued to a person with a medical waiver is subject to the restrictions identified in Iowa Code section 321J.20A(3) and must comply with rule 761—615.45(321).

620.3(4) Restrictions. Upon receipt and approval of an application, the department will determine the restrictions to be imposed by the temporary restricted license. The licensee is to apply to the department in writing with a justification for any requested change in license restrictions.

620.3(5) Denial. A person who has been denied a temporary restricted license or who contests the restrictions imposed by the department may contest the decision at any time in accordance with rule 761—620.5(17A,307,321J).

[ARC 9267C, IAB 5/14/25, effective 6/18/25]

761—620.4(321J) Ignition interlock device provider reports.

620.4(1) Access and approval. An approved ignition interlock provider seeking to access department records to perform the electronic reporting outlined in this rule must apply to the department in a manner approved by the department and in compliance with 761—Chapter 301.

620.4(2) Electronic reporting.

a. An approved ignition interlock device provider shall electronically report a notice of violation occurrence and a final compliance report to the department in a manner approved by the department.

b. An approved ignition interlock provider shall retain all data, information and records associated with a notice of violation occurrence and final compliance report for a period of at least five years and make such data available to the department upon request.

620.4(3) Notice of violation occurrence. The notice of violation occurrence shall be generated and sent by the ignition interlock device provider to the department no earlier than the same day the occurrence meets the criteria under Iowa Code section 321J.17A(1) and no later than seven business days after the occurrence meets the criteria under Iowa Code section 321J.17A(1).

a. The notice of violation occurrence shall specify the applicable paragraph in Iowa Code section 321J.17A(1)“a” through “d” to which the occurrence corresponds.

b. For purposes of determining when the periods referenced in Iowa Code section 321J.17A(1)“a” and “b” begin and end, the following applies:

(1) The 30-day period described in Iowa Code section 321J.17A(1)“a” begins on the date the first violation occurs and ends 30 days after the date the first violation occurred. All violations that occur within that 30-day period count toward one occurrence. Any new violation occurring after the end date of the initial 30-day period counts toward an additional occurrence.

(2) The 24-hour period described in Iowa Code section 321J.17A(1)“b” begins when the first violation occurs and ends 24 hours after the time the first violation occurred. All violations that occur within that 24-hour period count toward one occurrence. Any new violation occurring after the end of the initial 24-hour period counts toward an additional occurrence.

c. Any violation will count toward an occurrence under both Iowa Code section 321J.17A(1)“a” and “b.”

d. Failing to provide a detectable breath sample in Iowa Code section 321J.17A(4)“a”(1) means the failure occurred during a random retest.

e. An event described in Iowa Code section 321J.17A(4)“b” is not a violation if the immediate retest is successful and occurs within ten minutes of the first failed test.

f. Upon request, the ignition interlock device provider shall also provide the applicable underlying violation category under Iowa Code section 321J.17A(4)“a” and any other identifying information requested by the department for each occurrence.

g. Each notice of violation occurrence requires a separate 60-day time extension to the period of time a person is required to maintain an ignition interlock device pursuant to Iowa Code section 321J.17A(1).

h. Nothing in this subrule prevents a 60-day time extension from being added if the notice of violation occurrence is sent after the time required under this subrule due to the person’s failure to have the ignition interlock device reset once it has entered lockout condition.

i. If a violation under Iowa Code section 321J.17A(4)“a” occurs solely due to the ignition interlock device suffering a manufacturer’s defect, as determined by the ignition interlock device provider, the violation shall not be included in a notice of violation occurrence under this subrule.

620.4(4) Final device download and compliance report.

a. Upon receipt of notification from the department that the person's requirement to maintain installation of the ignition interlock device has ended, the ignition interlock device provider shall complete a final download of the ignition interlock device to determine if the person has had any violation occurrences prior to or on the end date reported by the department. If no violation occurrences are detected, the ignition interlock device provider shall generate and send to the department a final compliance report, in the form and manner prescribed by the department, no later than seven business days following the date of the final download of the ignition interlock device. The ignition interlock device provider may uninstall the ignition interlock device if the final download detects no violation occurrences prior to or on the end date reported by the department.

b. If, during the final download, a violation occurrence is detected that occurred on or prior to the date the person's requirement to maintain installation of an ignition interlock device ends as reported by the department, all of the following apply:

(1) The ignition interlock device provider shall report the violation occurrence to the department in the same manner as any other violation occurrence is reported.

(2) The time extension under Iowa Code section 321J.17A applies and the ignition interlock device cannot be uninstalled until all time extensions have ended.

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761—620.5(17A,307,321J) Hearings and appeals.

620.5(1) Contested case hearing.

a. A person may request a contested case hearing by submitting Form 432034 to the department or by submitting a written request to the motor vehicle division. The request is to include the person's name, date of birth, driver's license number, complete address and telephone number.

b. A request for a hearing to contest a revocation is to be submitted within ten days following receipt of the revocation notice. The request will be deemed timely submitted if it is delivered to the motor vehicle division or properly addressed and postmarked within this time period.

c. Failure to timely request a hearing on a revocation is a waiver of the right to a hearing under Iowa Code chapter 321J, and the revocation shall become effective on the date specified in the revocation notice.

d. After a hearing, a written decision will be issued by the presiding officer.

620.5(2) Appeal. A decision by a presiding officer shall become the final decision of the department unless either party appeals the decision in accordance with this subrule.

a. An appeal is to be decided on the basis of the record made before the presiding officer in the contested case hearing, and no additional evidence shall be presented.

b. An appeal is to include a statement of the specific issues presented for review and the precise ruling or relief requested.

c. An appeal of the presiding officer's decision shall be submitted in writing to the motor vehicle division.

d. An appeal is deemed timely submitted if it is received by the motor vehicle division or properly addressed and postmarked within ten days after receipt of the presiding officer's decision.

e. The motor vehicle division will forward the appeal to the director of transportation or director's designee (director). The director may affirm, modify, or reverse the decision of the presiding officer or may remand the case to the presiding officer.

f. Failure to timely appeal a decision shall be considered a failure to exhaust administrative remedies.

620.5(3) Final agency action. The decision of the director is the final decision of the department and constitutes final agency action for purposes of judicial review. No further steps are necessary to exhaust administrative remedies.

620.5(4) Default.

a. If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no continuance is granted, either enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. Any party may move for default against a party who has requested the contested case proceeding and who has failed to appear after proper service.

c. A default decision or a decision rendered on the merits after a party has failed to appear or participate in a contested case proceeding becomes final agency action unless, within ten days after receipt of the decision, either a motion to vacate is filed and served on the presiding officer and the other parties or an appeal of a decision on the merits is timely submitted in accordance with subrule 620.5(2). A motion to vacate is to state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate.

d. The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

e. Timely filed motions to vacate are to be granted only for good cause shown. The burden of proof is on the moving party. Adverse parties are to respond to a motion to vacate within ten days.

f. "Good cause" for the purpose of this rule means surprise, excusable neglect, or unavoidable casualty.

g. A decision denying a motion to vacate is subject to further appeal in accordance with subrule 620.5(2).

h. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party in accordance with subrule 620.5(2).

i. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case is to proceed accordingly.

620.5(5) *Petition to reopen a hearing.*

a. A petition to reopen a hearing pursuant to Iowa Code section 17A.16 is to be submitted in writing to the motor vehicle division. If a petition is based on a court order, a copy of the court order shall be submitted with the petition. If a petition is based on new evidence, the petitioner shall submit a concise statement of the new evidence and the reason(s) for the unavailability of the evidence at the original hearing.

b. A petition to reopen a hearing may be submitted at any time even if a hearing to contest the revocation was not originally requested or held.

c. A person may appeal a denial of the petition to reopen. A timely appeal is delivered to the motor vehicle division or properly addressed and postmarked within 20 days after issuance of the decision denying the petition to reopen.

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761—620.6(321J) Reinstatement. The department may reinstate the driver's license when the revocation has ended if the person has satisfied the requirements under paragraphs 620.3(2)"a" and "c" through "e" and Iowa Code section 321J.17.

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761—620.7(307,321,321J) Issuance of temporary restricted license after revocation period has expired. The department may issue a temporary restricted license under Iowa Code section 321J.20(6) for six months from the end of the original revocation, unless a longer period of time is necessary to complete the requirements for driver's license reinstatement.

620.7(1) An applicant for a temporary restricted license under this rule must demonstrate to the satisfaction of the department one of the following:

a. That a course for drinking drivers was not readily available to the person during the revocation period and that the applicant has enrolled in a course for drinking drivers. The applicant must furnish the dates the class will begin and end.

b. That substance use disorder evaluation and treatment have not been completed because of an inability to schedule them or because they are ongoing.

c. That due to surprise, excusable neglect, or unavoidable casualty, the applicant has been unable to meet the requirements under rule 761—620.3(307,321,321J) and needs additional time for completion.

620.7(2) An applicant for a temporary restricted license under this rule must meet all other conditions for issuance of a temporary restricted license under rule 761—620.3(307,321,321J) and Iowa Code section 321J.20.

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761—620.8(307,321J) Revocation for deferred judgment. The revocation period under Iowa Code section 321J.4(3) shall be 90 days.

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761—620.9(125,321J) Substance use disorder evaluation and treatment. When the department revokes a person's driver's license under Iowa Code chapter 321J, the department shall also order the person to submit to substance use disorder evaluation and, if recommended, substance use disorder treatment. A provider of substance use disorder evaluation and treatment shall be licensed by the Iowa department of health and human services pursuant to Iowa Code chapter 125.

620.9(1) Reporting.

a. When a person has satisfactorily completed substance use disorder evaluation and treatment, the program provider shall electronically report completion to the department in a manner approved by the department.

b. Reporting to the department shall be in accordance with Iowa Code sections 125.84 and 125.86 and 42 CFR §2.13 effective April 16, 2024.

620.9(2) Payment. Payment of substance use disorder evaluation and treatment shall be in accordance with Iowa department of health and human services rules.

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761—620.10(321J) Drinking drivers course. When a person who has been ordered to enroll, attend, and satisfactorily complete a course for drinking drivers under Iowa Code chapter 321J has successfully completed the course, the program provider under Iowa Code section 321J.22(2) "a" shall electronically report completion to the department in a manner approved by the department.

[ARC 9267C, IAB 5/14/25, effective 6/18/25]

These rules are intended to implement Iowa Code chapters 17A and 321J and sections 125.84, 125.86, 307.12(1) "j," 321.193, 321.201, 321.215, 321.376 and 707.6A.

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