

761—607.39(321) Disqualification.

607.39(1) *Date.* A disqualifying act, action or offense under Iowa Code section 321.208, that occurred before July 1, 1990, shall not be grounds for disqualification from operating a commercial motor vehicle.

607.39(2) *Notice.* A 30-day advance notice of disqualification shall be served by the department in accordance with rule 761—615.37(321). Pursuant to Iowa Code subsection 321.208(12), a peace officer on behalf of the department may serve the notice of disqualification immediately.

607.39(3) *Hearing and appeal process.* A person who has received a notice of disqualification may contest the disqualification in accordance with 761—615.38(17A,321).

607.39(4) *Reduction of lifetime disqualification.*

a. As permitted by 49 CFR Section 383.51, a person subject to lifetime disqualification of the person's commercial driving privileges may apply to the department for reinstatement. The approval is subject to the discretion of the department and subject to the following requirements:

(1) The request may not be made prior to ten years from the effective date of the lifetime disqualification.

(2) The person must submit the request in a manner prescribed by the department.

(3) If the driving record contains alcohol-related or drug-related offenses that resulted in the lifetime disqualification, the person must have completed an alcohol or drug evaluation and have completed any recommended treatment which meets or exceeds the minimum standards approved by the Iowa department of health and human services. Evidence of a completed evaluation and treatment must be on file with the department or submitted with the application for reinstatement.

(4) Within the ten years preceding the request, the person must not have any of the following moving violation convictions:

1. A drug or alcohol offense.

2. Leaving the scene of an accident.

3. A felony involving the use of any motor vehicle.

4. Any moving violation while operating a commercial motor vehicle.

(5) The department may request, and the person shall provide, any additional information or documentation necessary to determine the person's eligibility for reinstatement or general fitness for licensure.

b. If the department finds the person is eligible for reinstatement under this subrule, the person shall do all of the following prior to reinstatement:

(1) Pay all outstanding reinstatement fees.

(2) Meet all outstanding reinstatement requirements.

(3) Pass the required knowledge, vision, and skills tests as specified in Iowa Code section 321.188.

(4) Complete any other courses or requirements as required by the director.

c. As provided in 49 CFR Section 383.51(a)(6), a person who has previously had the person's commercial driving privileges reinstated pursuant to this subrule shall not be eligible to apply for reinstatement following conviction of a subsequent disqualifying offense.

d. If the department determines the person is not eligible for reinstatement as provided in this subrule, the department shall send notice by first-class mail to the person's mailing address as shown on departmental records that the lifetime disqualification remains in effect.

607.39(5) *Fraud related to testing and issuance.*

a. As required by 49 CFR Section 383.73(k) and Iowa Code section 321.201(2) "b," the department shall disqualify the commercial driver's license or commercial learner's permit of a person convicted or suspected of fraud related to the testing for or issuance of a commercial driver's license or commercial learner's permit.

b. Upon receipt of a person's conviction of fraud related to the issuance of the commercial driver's license or commercial learner's permit, the department shall disqualify the person's commercial driver's license or commercial learner's permit for one year.

c. Upon receipt of credible evidence that a person is suspected of committing fraud relating to the issuance of a commercial driver's license or a commercial learner's permit, the department shall notify the

person of the requirement to retake the applicable knowledge or skills test. Within 30 days of receiving notice from the department, the person is required to contact the department to retake the knowledge or skills test. If the person fails to contact the department within 30 days after the notice, or the person fails the knowledge or skills test, or does not take the test, the department shall disqualify the person's commercial driver's license or commercial learner's permit.

d. Once a person's commercial driver's license or commercial learner's permit has been disqualified, the person must reapply following the usual procedures as provided in Iowa Code section 321.188 and this chapter.

This rule is intended to implement Iowa Code chapter 17A and section 321.208.

[ARC 2530C, IAB 5/11/16, effective 6/15/16; ARC 4986C, IAB 3/11/20, effective 4/15/20; Editorial change: IAC Supplement 11/29/23]