

# House Amendment 1309

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1 1 Amend Senate File 356, as passed by the Senate, as  
1 2 follows:  
1 3 #1. By striking page 1, line 20, through page 5,  
1 4 line 14, and inserting the following:  
1 5 <Sec. \_\_\_\_\_. NEW SECTION. 321.200A CONVICTIONS  
1 6 BASED UPON FRAUD.  
1 7 1. If a person discovers a record of conviction  
1 8 for a scheduled violation under this chapter was  
1 9 entered by fraudulent use of the person's name or by  
1 10 use of other fraudulent identification, the person  
1 11 may, within one year of the date of the discovery of  
1 12 the conviction, submit a written application to the  
1 13 department to investigate the allegation. The  
1 14 department may summarily reject the application as  
1 15 submitted, or proceed to investigate the application.  
1 16 If the department investigates the application, the  
1 17 department may either deny the application or if the  
1 18 department determines the allegation is warranted,  
1 19 approve the application. If the department  
1 20 investigates the application the department shall also  
1 21 issue a report and findings with the decision of the  
1 22 department. The rejection, approval, or denial of an  
1 23 application is not subject to contested case  
1 24 proceedings or further review as provided in chapter  
1 25 17A. If the application is investigated, the  
1 26 department shall provide the applicant with a  
1 27 certified copy of the decision of the department. If  
1 28 the department approves the application, the  
1 29 department shall also provide the applicant with a  
1 30 certified copy of the investigative report and  
1 31 findings. The department shall also provide certified  
1 32 copies of the department's decision approving or  
1 33 denying the application together with the  
1 34 investigative report and findings to the appropriate  
1 35 prosecuting attorney in the city or county that  
1 36 prosecuted the scheduled violation, and to the  
1 37 district court in the county that prosecuted the  
1 38 scheduled violation. The department may  
1 39 electronically provide copies of any decision  
1 40 approving or denying the application and the  
1 41 investigative report and findings, to the district  
1 42 court.  
1 43 2. A person who discovers that a record of  
1 44 conviction for a scheduled violation under this  
1 45 chapter was entered by fraudulent use of the person's  
1 46 name or by use of other fraudulent identification, may  
1 47 bypass the application process in subsection 1, and  
1 48 move in district court to set aside the judgment of  
1 49 conviction within one year of discovery of the  
1 50 conviction. An applicant with an approved application  
2 1 under subsection 1, shall also move in district court  
2 2 to set aside the judgment of conviction in order to  
2 3 have the department expunge or alter the records of  
2 4 the department or rescind or modify an administrative  
2 5 sanction. If the district court grants the motion to  
2 6 set aside the judgment, the district court shall order  
2 7 the charging agency or official to modify the records  
2 8 of the agency or official to reflect the order setting  
2 9 aside the judgment. The clerk of the district court  
2 10 shall provide the court order setting aside the  
2 11 judgment, either by regular mail or electronic means,  
2 12 to the charging agency or official, and the department  
2 13 of transportation. The clerk of the district court  
2 14 shall also provide the applicant with a certified copy  
2 15 of the court order at no cost to the applicant.  
2 16 3. Notwithstanding the department's approval of an  
2 17 application pursuant to subsection 1, the department  
2 18 shall not expunge or alter the records of the  
2 19 department or rescind or modify an administrative  
2 20 sanction unless the department receives an order from  
2 21 the district court setting aside the previous judgment  
2 22 of the court as provided in subsection 2. Upon  
2 23 receiving a copy of an order from the district court  
2 24 setting aside the previous judgment of the court, the

2 25 department shall expunge the record and shall rescind  
2 26 any administrative sanction imposed upon the applicant  
2 27 as a result of the judgment, unless the applicant is  
2 28 subject to sanctions for other reasons. The  
2 29 department may impose a new sanction if expunging the  
2 30 judgment would result in a lesser or different  
2 31 sanction.

2 32 4. The department shall adopt rules pursuant to  
2 33 chapter 17A to implement this section.

2 34 Sec. \_\_\_\_\_. Section 811.9, Code 2009, is amended to  
2 35 read as follows:

2 36 811.9 FORFEITURE OF APPEARANCE BOND.

2 37 Sections 811.6 through 811.8 shall not apply in a  
2 38 case where a simple misdemeanor is charged upon a  
2 39 uniform citation and complaint and where the defendant  
2 40 has submitted an unsecured appearance bond or has  
2 41 submitted bail in the form of cash, check, credit card  
2 42 as provided in section 805.14, or guaranteed arrest  
2 43 bond certificate as defined in section 321.1. When a  
2 44 defendant fails to appear as required in such cases,  
2 45 the court, or the clerk of the district court, shall  
2 46 enter a judgment of forfeiture of the bond or bail.  
2 47 The judgment shall be final upon entry and shall not  
2 48 be set aside unless a conviction for a scheduled  
2 49 violation under chapter 321 was set aside under the  
2 50 procedures established in section 321.200A.>

3 1 #2. By renumbering as necessary.

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3 5 COMMITTEE ON TRANSPORTATION

3 6 QUIRK of Chickasaw, Chairperson

3 7 SF 356.701 83

3 8 jm/nh/12506