



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

March 22, 2010

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 2452, an Act relating to driver's license sanctions, including the issuance of temporary restricted licenses and certain requirements relating to ignition interlock devices, and providing penalties.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver", with a long horizontal flourish extending to the right.

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





House File 2452

AN ACT

RELATING TO DRIVER'S LICENSE SANCTIONS, INCLUDING THE ISSUANCE OF TEMPORARY RESTRICTED LICENSES AND CERTAIN REQUIREMENTS RELATING TO IGNITION INTERLOCK DEVICES, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 321.215, subsection 2, Code 2009, is amended to read as follows:

2. ~~a.~~ Upon conviction and the suspension or revocation of a person's noncommercial driver's license under section 321.209, subsection 5 or 6~~, or~~ section 321.210~~, 321.210A~~, or 321.513; or upon revocation pursuant to a court order issued under section 901.5, subsection 10; or upon the denial of issuance of a noncommercial driver's license under section 321.560, based solely on offenses enumerated in section 321.555, subsection 1, paragraph "c", or section 321.555, subsection 2; or ~~a juvenile, whose license has been suspended or revoked upon suspension or revocation of a juvenile's driver's license pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3; or upon suspension of a driver's license pursuant to a court order under section 714.7D, a~~ the person may ~~petition the district court having jurisdiction over the residence of the person~~ apply to the department for a temporary restricted license to operate a motor vehicle for the limited purpose or

purposes specified in subsection 1. ~~The petition shall include a current certified copy of the petitioner's official driving record issued by the department.~~ The application may be granted only if all of the following criteria are satisfied:

~~(1)~~ a. The temporary restricted license is requested only for a case of extreme hardship or ~~compelling~~ circumstances where alternative means of transportation do not exist.

~~(2)~~ ~~The license applicant has not made an application for a temporary restricted license in any district court in the state which was denied.~~

~~(3)~~ b. The temporary restricted license is restricted to the limited purpose or purposes specified in subsection 1 at times specified in the license.

~~(4)~~ c. Proof of financial responsibility is established as defined in chapter 321A. However, such proof is not required if the driver's license was suspended under section 321.210A or 321.513 or revoked pursuant to a court order issued under section 901.5, subsection 10.

~~b. If the district court determines that a temporary restricted license is necessary, the court shall order the department to issue a temporary restricted license to the applicant. The court shall forward a record of each application for a temporary restricted license to the department, together with the results of the disposition of the request by the court.~~

Sec. 2. Section 321.560, subsection 1, paragraph b, Code 2009, is amended to read as follows:

b. A temporary restricted license may be issued pursuant to section ~~321J.4, subsection 9~~ 321J.20, subsection 2, to a person declared to be a habitual offender due to a combination of the offenses listed under section 321.555, subsection 1, paragraphs "b" and "c".

Sec. 3. Section 321J.2, subsection 2, paragraph a, subparagraph (3), subparagraph divisions (a) and (b), Code 2009, are amended to read as follows:

(a) A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The department shall require the defendant shall be ordered to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license. There shall be

no such period of ineligibility if no such accident occurred, and the defendant shall not be ~~ordered~~ required to install an ignition interlock device.

(b) A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained, and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the department shall require the defendant ~~shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.

Sec. 4. Section 321J.4, subsections 1 and 2, Code Supplement 2009, are amended to read as follows:

1. If a defendant is convicted of a violation of section 321J.2 and the defendant's driver's license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 for the occurrence from which the arrest arose, the department shall revoke the defendant's driver's license or nonresident operating privilege for one hundred eighty days if the defendant submitted to chemical testing and has had no previous conviction or revocation under this chapter and shall revoke the defendant's driver's license or nonresident operating privilege for one year if the defendant refused to submit to chemical testing and has had no previous conviction or revocation under this chapter. The defendant shall not be eligible for any temporary restricted license for at least ninety days if a test was refused under section 321J.9.

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The department shall require the defendant ~~shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ~~ordered~~ required to install an

ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the department shall require the defendant ~~shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.

c. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of revocation.

2. If a defendant is convicted of a violation of section 321J.2, and the defendant's driver's license or nonresident operating privilege has not already been revoked under section 321J.9 or 321J.12 for the occurrence from which the arrest arose, the department shall revoke the defendant's driver's license or nonresident operating privilege for ~~two years~~ one year if the defendant submitted to chemical testing and has had a previous conviction or revocation under this chapter and shall revoke the defendant's driver's license or nonresident operating privilege for two years if the defendant refused to submit to chemical testing and has had a previous revocation under this chapter. The defendant shall not be eligible for any temporary restricted license for forty-five days after the effective date of revocation if the defendant submitted to chemical testing and shall not be eligible for any temporary restricted license for ninety days after the effective date of revocation if the defendant refused chemical testing. The temporary restricted license shall be issued in accordance with section 321J.20, subsection 2. The department shall require the defendant ~~shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. A temporary restricted license shall not be granted by the department until the

defendant installs the ignition interlock device.

Sec. 5. Section 321J.4, subsection 3, paragraphs a and b, Code Supplement 2009, are amended to read as follows:

a. A defendant whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred. The department shall require ~~the defendant shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be ~~ordered~~ required to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the department shall require the defendant ~~shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.

Sec. 6. Section 321J.4, subsection 4, Code Supplement 2009, is amended to read as follows:

4. Upon a plea or verdict of guilty of a third or subsequent violation of section 321J.2, ~~the court shall order the department to~~ shall revoke the defendant's driver's license or nonresident operating privilege for a period of six years. The defendant shall not be eligible for a temporary restricted license for ~~at least~~ one year after the effective date of the revocation. ~~The court shall require the defendant to surrender to it all Iowa licenses or permits held by the defendant, which the court shall forward to the department with a copy of the order for revocation.~~ The department shall require ~~the defendant shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the

defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

Sec. 7. Section 321J.4, subsection 9, Code Supplement 2009, is amended by striking the subsection.

Sec. 8. Section 321J.9, subsection 2, Code 2009, is amended to read as follows:

2. a. A person whose driver's license or nonresident operating privileges are revoked under subsection 1, ~~paragraph "a"~~, shall not be eligible for a temporary restricted license for at least ninety days after the effective date of the revocation. ~~A person whose driver's license or nonresident operating privileges are revoked under subsection 1, paragraph "b", shall not be eligible for a temporary restricted license for at least one year after the effective date of the revocation.~~ A temporary restricted license issued to a person whose driver's license or nonresident driving privilege has been revoked under subsection 1, paragraph "b", shall be issued in accordance with section 321J.20, subsection 2.

b. The department shall require the ~~defendant shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

Sec. 9. Section 321J.12, subsection 2, Code 2009, is amended to read as follows:

2. a. A person whose driver's license or nonresident operating privileges have been revoked under subsection 1, paragraph "a", whose alcohol concentration is .08 or more but not more than .10 shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained and an accident resulting in personal injury or property damage occurred. The department shall require the ~~defendant shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary license. There shall be no such period of ineligibility if no such accident occurred, and the defendant shall not be

~~ordered~~ required to install an ignition interlock device.

b. A defendant whose alcohol concentration is more than .10 shall not be eligible for any temporary restricted license for at least thirty days if a test was obtained and an accident resulting in personal injury or property damage occurred or the defendant's alcohol concentration exceeded .15. There shall be no such period of ineligibility if no such accident occurred and the defendant's alcohol concentration did not exceed .15. In either case, where a defendant's alcohol concentration is more than .10, the department shall require the defendant ~~shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license.

c. If the person is under the age of twenty-one, the person shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

d. A person whose license or privileges have been revoked under subsection 1, paragraph "b", for one year shall not be eligible for any temporary restricted license for ~~one year~~ forty-five days after the effective date of the revocation, and the department shall require the person ~~shall be ordered~~ to install an ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant if the defendant seeks a temporary restricted license at the end of the minimum period of ineligibility. The temporary restricted license shall be issued in accordance with section 321J.20, subsection 2. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device.

Sec. 10. Section 321J.17, subsection 3, Code 2009, is amended to read as follows:

3. The department shall also require certification of installation of an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by any person seeking reinstatement following a second or subsequent ~~conviction for a violation of section 321J.2~~ revocation under section 321J.4, 321J.9, or 321J.12, unless such a person has previously received a temporary restricted license during the term of the revocation as authorized by this chapter. The requirement for the installation of an approved ignition interlock device shall be for one year from the date of reinstatement unless a

different time period is required by statute.

Sec. 11. Section 321J.20, Code 2009, is amended to read as follows:

321J.20 Temporary restricted license — ignition interlock devices.

1. a. The department may, on application, issue a temporary restricted license to a person whose noncommercial driver's license is revoked under this chapter allowing the person to drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by the person's full-time or part-time employment, continuing health care or the continuing health care of another who is dependent upon the person, continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion, substance abuse treatment, court-ordered community service responsibilities, and appointments with the person's parole or probation officer if the person's driver's license has not been revoked previously under section 321J.4, 321J.9, or 321J.12 and if any of the following apply:

~~a.~~ (1) The person's noncommercial driver's license is revoked under section 321J.4 and the minimum period of ineligibility for issuance of a temporary restricted license has expired. This subsection shall not apply to a revocation ordered under section 321J.4 resulting from a plea or verdict of guilty of a violation of section 321J.2 that involved a death.

~~b.~~ (2) The person's noncommercial driver's license is revoked under section 321J.9 and the person has entered a plea of guilty on a charge of a violation of section 321J.2 which arose from the same set of circumstances which resulted in the person's driver's license revocation under section 321J.9 and the guilty plea is not withdrawn at the time of or after application for the temporary restricted license, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

~~c.~~ (3) The person's noncommercial driver's license is revoked under section 321J.12, and the minimum period of ineligibility for issuance of a temporary restricted license has expired.

b. ~~However, a~~ A temporary restricted license may be issued under this subsection if the person's noncommercial driver's

license is revoked for two years under section 321J.9, and the revocation is a second revocation under this chapter section 321J.4, subsection 2, or section 321J.9, subsection 1, paragraph "b", and the first three hundred sixty-five days of the revocation have expired.

2. c. This section subsection does not apply to a person whose license was revoked under section 321J.2A or section 321J.4, subsection 4 or 6, or to a person whose license is suspended or revoked for another reason.

d. Following the applicable minimum period of ineligibility, a temporary restricted license under this subsection shall not be issued until the applicant installs an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the applicant in accordance with section 321J.2, 321J.4, 321J.9, or 321J.12. Installation of an ignition interlock device under this subsection shall be required for the period of time for which the temporary restricted license is issued.

2. a. Notwithstanding section 321.560, the department may, on application, and upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under section 321.560, 321J.4, 321J.9, or 321J.12, issue a temporary restricted license to a person whose noncommercial driver's license has either been revoked under this chapter, or revoked or suspended under chapter 321 solely for violations of this chapter, or who has been determined to be a habitual offender under chapter 321 based solely on violations of this chapter or on violations listed in section 321.560, subsection 1, paragraph "b", and who is not eligible for a temporary restricted license under subsection 1. However, the department may not issue a temporary restricted license under this subsection for a violation of section 321J.2A or to a person under the age of twenty-one whose license is revoked under section 321J.4, 321J.9, or 321J.12. A temporary restricted license issued under this subsection may allow the person to drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by the person's full-time or part-time employment, continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion, or substance abuse treatment.

b. Notwithstanding paragraph "a", a temporary restricted license issued to a person whose noncommercial driver's license has been revoked under section 321J.4, subsection 2, section 321J.9, subsection 1, paragraph "b", or section 321J.12, subsection 1, paragraph "b", shall provide for but not exceed the uses permitted by 23 U.S.C. § 164. This restriction applies only during the first three hundred sixty-five days of the person's revocation.

c. A temporary restricted license issued under this subsection shall be conditioned upon the installation of an approved ignition interlock device on all motor vehicles owned or operated by the person. However, a person whose driver's license or nonresident operating privilege has been revoked under section 321J.21 may apply to the department for a temporary restricted license without the requirement of an ignition interlock device if at least twelve years have elapsed since the end of the underlying revocation period for a violation of section 321J.2.

3. If a person required to install an ignition interlock device operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked.

3. 4. A person holding a temporary restricted license issued by the department under this section shall not operate a motor vehicle for pleasure.

4. 5. A person holding a temporary restricted license issued by the department under this section shall not operate a commercial motor vehicle on a highway if a commercial driver's license is required for the person's operation of the commercial motor vehicle.

5. 6. A person holding a temporary license issued by the department under this chapter shall be prohibited from operating a school bus.

~~6. Following certain minimum periods of ineligibility, a temporary restricted license under this section shall not be issued until such time as the applicant installs an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by the applicant, in accordance with section 321J.2, 321J.4, 321J.9, or 321J.12. Installation of an ignition interlock device under this section shall be required for the period of time for which~~

~~the temporary restricted license is issued.~~

7. Notwithstanding any provision of this chapter to the contrary, the department may issue a temporary restricted license to a person otherwise eligible for a temporary restricted license under this section, whose period of revocation under this chapter has expired, but who has not met all requirements for reinstatement of the person's driver's license or nonresident operating privileges.

8. A person who tampers with or circumvents an ignition interlock device installed as required in this chapter and while the requirement for the ignition interlock device is in effect commits a serious misdemeanor.

Sec. 12. Section 707.6A, subsection 1, Code 2009, is amended to read as follows:

1. A person commits a class "B" felony when the person unintentionally causes the death of another by operating a motor vehicle while intoxicated, as prohibited by section 321J.2.

1A. Upon a plea or verdict of guilty of a violation of this subsection 1, the court shall do the following:

~~a. Order the state department of transportation to revoke the defendant's driver's license or nonresident operating privileges for a period of six years. The defendant shall surrender to the court any Iowa license or permit and the court shall forward the license or permit to the department with a copy of the revocation order of conviction. Upon receipt of the order of conviction, the department shall revoke the defendant's driver's license or nonresident operating privilege for a period of six years. The defendant shall not be eligible for a temporary restricted license for at least two years after the revocation.~~

1B. b. Order Upon a plea or verdict of guilty of a violation of subsection 1, the court shall order the defendant, at the defendant's expense, to do the following:

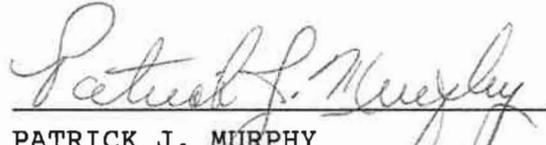
a. (1) Enroll, attend, and satisfactorily complete a course for drinking drivers, as provided in section 321J.22.

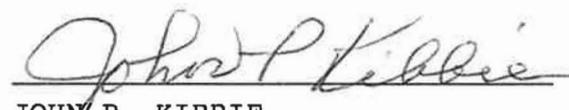
b. (2) Submit to evaluation and treatment or rehabilitation services.

1C. c. A driver's license or nonresident operating privilege shall not be reinstated until proof of completion of the requirements of ~~paragraph "b"~~ subsection 1B is presented to the department.

1D. d. Where the program is available and appropriate for the defendant, the court shall also order the defendant to

participate in a reality education substance abuse prevention program as provided in section 321J.24.


PATRICK J. MURPHY
Speaker of the House


JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2452, Eighty-third General Assembly.

Approved March 22nd, 2010

MARK BRANDSGARD
Chief Clerk of the House


CHESTER J. CULVER
Governor