



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 22, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 356, an Act relating to department of transportation administrative procedures by establishing a procedure to remove a conviction relating to the operation of a motor vehicle from a driving record based on identity theft and requiring verification of status in regards to the driver's license of a foreign national.

The above Senate File is hereby approved this date.

Sincerely,



Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 356

AN ACT

RELATING TO DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE PROCEDURES BY ESTABLISHING A PROCEDURE TO REMOVE A CONVICTION RELATING TO THE OPERATION OF A MOTOR VEHICLE FROM A DRIVING RECORD BASED ON IDENTITY THEFT AND REQUIRING VERIFICATION OF STATUS IN REGARDS TO THE DRIVER'S LICENSE OF A FOREIGN NATIONAL.

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

Section 1. Section 321.196, subsection 1, Code 2009, is amended to read as follows:

1. Except as otherwise provided, a driver's license, other than an instruction permit, chauffeur's instruction permit, or commercial driver's instruction permit issued under section 321.180, expires five years from the licensee's birthday anniversary occurring in the year of issuance if the licensee is between the ages of seventeen years eleven months and seventy years on the date of issuance of the license. If the licensee is under the age of seventeen years eleven months or age seventy or over, the license is effective for a period of two years from the licensee's birthday anniversary occurring in the year of issuance. A licensee whose license is restricted due to vision or other physical deficiencies may be required to renew the license every two years. If a licensee is a foreign national who is temporarily present in this state, the license shall be issued only for the length of time the foreign national is authorized to be present as determined verified by the department, not to exceed two years.

Sec. 2. NEW SECTION. 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.

Sec. 3. Section 811.9, Code 2009, is amended to read as follows:

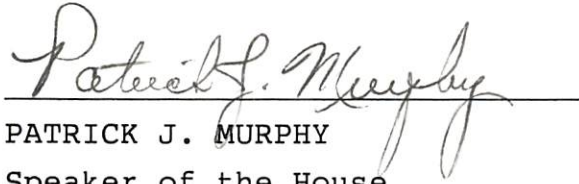
811.9 FORFEITURE OF APPEARANCE BOND.

Sections 811.6 through 811.8 shall not apply in a case where a simple misdemeanor is charged upon a uniform citation and complaint and where the defendant has submitted an unsecured appearance bond or has submitted bail in the form of cash, check, credit card as provided in section 805.14, or guaranteed arrest bond certificate as defined in section 321.1. When a defendant fails to appear as required in such cases, the court, or the clerk of the district court, shall enter a judgment of forfeiture of the bond or bail. The judgment shall be final upon entry and shall not be set aside

unless a conviction for a scheduled violation under chapter 321 was set aside under the procedures established in section 321.200A.



JOHN P. KIBBIE
President of the Senate



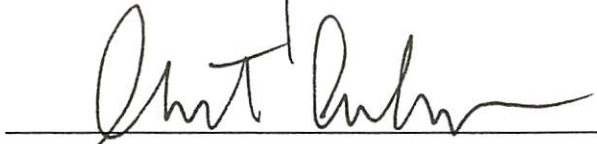
PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 356, Eighty-third General Assembly.



MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 22nd, 2009



CHESTER J. CULVER
Governor