

# House File 610 - Introduced

HOUSE FILE \_\_\_\_\_  
BY KAUFMANN

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the delivery of certain notices provided by  
2 the department of transportation and authorizing the  
3 department to collect fees for the cost of providing certain  
4 notices.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 1024YH 83  
7 md/nh/24

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1 1 Section 1. Section 321.16, subsection 1, Code 2009, is  
1 2 amended to read as follows:  
1 3 1. a. When Except as provided under paragraph "b", when  
1 4 the department is authorized or required to give notice under  
1 5 this chapter or any other law regulating the operation of  
1 6 vehicles, unless a different method of giving notice is  
1 7 expressly prescribed, notice shall be given either by personal  
1 8 delivery to the person to be so notified or by personal  
1 9 service in the manner of original notice by rule of civil  
1 10 procedure 1.305(1), or by first class mail addressed to the  
1 11 person at the address shown in the records of the department,  
1 12 notwithstanding chapter 17A. The department shall adopt rules  
1 13 regarding the giving of notice by first class mail, the  
1 14 updating of addresses in department records, and the  
1 15 development of affidavits verifying the mailing of notices  
1 16 under this chapter and chapter 321J. A person's refusal to  
1 17 accept or a claim of failure to receive a notice of  
1 18 revocation, suspension, or bar mailed by first class mail to  
1 19 the person's last known address shall not be a defense to a  
1 20 charge of driving while suspended, revoked, denied, or barred.

1 21 b. When the department is authorized or required to give  
1 22 notice of a revocation or suspension of a driver's license or  
1 23 permit, or disqualification from operating a commercial motor  
1 24 vehicle, under this chapter or any other law regulating the  
1 25 operation of vehicles, unless a different method of notice is  
1 26 expressly prescribed, notice shall be given by certified mail  
1 27 addressed to the person at the address shown in the records of  
1 28 the department, notwithstanding chapter 17A. If the  
1 29 department provides notice of a revocation, suspension, or  
1 30 disqualification by certified mail, the department may collect  
1 31 a fee from the person to whom the license or permit was issued  
1 32 totaling not more than the cost of the certified mail postage.

1 33 Sec. 2. Section 321.180A, subsection 3, Code 2009, is  
1 34 amended to read as follows:

1 35 3. The permittee may apply for a driver's license if  
2 1 thirty days have elapsed since issuance of the special  
2 2 instruction permit. The department shall issue a driver's  
2 3 license if the permittee is qualified, passes all required  
2 4 tests, including a driving test, and pays the required fees.  
2 5 If the person has not obtained a driver's license before  
2 6 expiration of the person's special instruction permit, the  
2 7 person's former denial or suspension under section 321.177,  
2 8 subsection 6 or 7, or section 321.210, subsection 1, paragraph  
2 9 "c", upon ~~service of~~ notice provided pursuant to section  
2 10 321.16, subsection 1, paragraph "b" by the department, shall  
2 11 be reinstated. A permit shall be reissued for one additional  
2 12 six-month period if a permittee continues to meet the  
2 13 qualifications of subsection 1 and has incurred no motor  
2 14 vehicle violations.

2 15 Sec. 3. Section 321.191, subsection 8, Code 2009, is  
2 16 amended to read as follows:

2 17 8. DRIVER'S LICENSE REINSTATEMENTS. The fee for  
2 18 reinstatement of a driver's license shall be twenty dollars

2 19 for a license which is, after notice provided pursuant to  
2 20 section 321.16, subsection 1, paragraph "b" and opportunity  
2 21 for hearing, canceled, suspended, revoked, or barred.  
2 22 However, reinstatement of the privilege suspended under  
2 23 section 321.210, subsection 1, paragraph "c", shall be without  
2 24 fee. The fee for reinstatement of the privilege to operate a  
2 25 commercial motor vehicle after a period of disqualification  
2 26 shall be twenty dollars.

2 27 Sec. 4. Section 321.208, subsections 11 through 13, Code  
2 28 2009, are amended to read as follows:

2 29 11. Upon receiving a record of a person's disqualifying  
2 30 conviction, administrative decision, suspension, or  
2 31 revocation, the department shall, by rule, without preliminary  
2 32 hearing and upon thirty days' advance notice provided pursuant  
2 33 to section 321.16, subsection 1, paragraph "b", disqualify the  
2 34 person from operating a commercial motor vehicle upon a  
2 35 highway.

3 1 12. a. A person is disqualified from operating a  
3 2 commercial motor vehicle if the person either refuses to  
3 3 submit to chemical testing required under chapter 321J or  
3 4 submits to chemical testing and the results show an alcohol  
3 5 concentration as defined in section 321J.1 of 0.04 or more.  
3 6 The department, upon receipt of the peace officer's  
3 7 certification, subject to penalty for perjury, that the peace  
3 8 officer had reasonable grounds to believe the person to have  
3 9 been operating a commercial motor vehicle with an alcohol  
3 10 concentration of 0.04 or more and that the person refused to  
3 11 submit to the chemical testing or submitted to chemical  
3 12 testing and the results show an alcohol concentration as  
3 13 defined in section 321J.1 of 0.04 or more, shall, without  
3 14 preliminary hearing and upon thirty days' advance notice  
3 15 provided pursuant to section 321.16, subsection 1, paragraph  
3 16 "b", disqualify the person from operating a commercial motor  
3 17 vehicle upon a highway.

3 18 b. The effective date of disqualification shall be thirty  
3 19 days after notification. Immediate notice of disqualification  
3 20 may be served on a person operating a commercial motor vehicle  
3 21 who refused to submit to a test or whose test results indicate  
3 22 an alcohol concentration of 0.04 or more by the peace officer  
3 23 administering the chemical test or, notwithstanding chapter  
3 24 17A, the department may notify the person ~~by first class mail~~  
3 25 pursuant to section 321.16, subsection 1, paragraph "b". If  
3 26 immediate notice is served, the peace officer shall take the  
3 27 commercial driver's license or permit of the driver, if issued  
3 28 within the state, and issue a temporary commercial driver's  
3 29 license effective for only thirty days. The peace officer  
3 30 shall immediately send the person's commercial driver's  
3 31 license to the department in addition to the officer's  
3 32 certification required by this subsection.

3 33 13. Upon notice provided pursuant to section 321.16,  
3 34 subsection 1, paragraph "b", the disqualified person shall  
3 35 surrender the person's commercial driver's license to the  
4 1 department and the department may issue a driver's license  
4 2 valid only to operate a noncommercial motor vehicle upon  
4 3 payment of a one dollar fee. The department shall notify the  
4 4 commercial driver's license information system of the  
4 5 disqualification if required to do so under section 321.204.

4 6 Sec. 5. Section 321.209, unnumbered paragraph 1, Code  
4 7 2009, is amended to read as follows:

4 8 The department, upon thirty days' notice provided pursuant  
4 9 to section 321.16, subsection 1, paragraph "b", and without  
4 10 preliminary hearing, shall revoke the license or operating  
4 11 privilege of an operator upon receiving a record of the  
4 12 operator's conviction for any of the following offenses, when  
4 13 such conviction has become final:

4 14 Sec. 6. Section 321.210, subsection 1, unnumbered  
4 15 paragraph 1, Code 2009, is amended to read as follows:

4 16 The department is authorized to establish rules providing  
4 17 for the suspension of the license of an operator upon thirty  
4 18 days' notice provided pursuant to section 321.16, subsection  
4 19 1, paragraph "b", and without preliminary hearing upon a  
4 20 showing by its records or other sufficient evidence that the  
4 21 licensee:

4 22 Sec. 7. Section 321.210, subsection 1, unnumbered  
4 23 paragraph 2, Code 2009, is amended to read as follows:

4 24 Prior to a suspension taking effect under paragraph "a",  
4 25 "b", "c", "d", "e", or "f", the licensee shall have received  
4 26 thirty days' advance notice, pursuant to section 321.16,  
4 27 subsection 1, paragraph "b", of the effective date of the  
4 28 suspension. Notwithstanding the terms of the Iowa  
4 29 administrative procedure Act, chapter 17A, the filing of a

4 30 petition for judicial review shall, except for suspensions  
4 31 under paragraph "c", operate to stay the suspension pending  
4 32 the determination by the district court.

4 33 Sec. 8. Section 321.210D, subsection 2, Code 2009, is  
4 34 amended to read as follows:

4 35 2. Upon receiving notice from the clerk of the district  
5 1 court that an indictment or information has been filed  
5 2 charging an operator with homicide by vehicle under section  
5 3 707.6A, subsection 1 or 2, the department shall notify the  
5 4 person pursuant to section 321.16, subsection 1, paragraph "b"  
5 5 that the person's driver's license will be suspended effective  
5 6 ten days from the date of issuance of the notice. The  
5 7 department shall adopt rules relating to the suspension of the  
5 8 license of an operator pursuant to this section which shall  
5 9 include, but are not limited to, procedures for the surrender  
5 10 of the person's license to the department upon the effective  
5 11 date of the suspension.

5 12 Sec. 9. Section 321.211, unnumbered paragraph 1, Code  
5 13 2009, is amended to read as follows:

5 14 Upon suspending the license of a person as authorized, the  
5 15 department shall immediately notify the licensee ~~in writing~~  
5 16 pursuant to section 321.16, subsection 1, paragraph "b", and  
5 17 upon the licensee's request shall afford the licensee an  
5 18 opportunity for a hearing before the department of inspections  
5 19 and appeals as early as practical within thirty days after  
5 20 receipt of the request. The hearing shall be held by  
5 21 telephone conference unless the licensee and the department of  
5 22 inspections and appeals agree to hold the hearing in the  
5 23 county in which the licensee resides or in some other county.  
5 24 Upon the hearing the department of inspections and appeals may  
5 25 administer oaths and issue subpoenas for the attendance of  
5 26 witnesses and the production of relevant books and papers and  
5 27 may require a re-examination of the licensee. Upon the  
5 28 hearing and issuance of a recommendation by the department of  
5 29 inspections and appeals, the state department of  
5 30 transportation shall either rescind its order of suspension or  
5 31 for good cause may extend the suspension of the license or  
5 32 revoke the license. This section does not preclude the  
5 33 director from attempting to effect an informal settlement  
5 34 under chapter 17A.

5 35 Sec. 10. Section 321.211A, Code 2009, is amended to read  
6 1 as follows:

6 2 321.211A APPEAL OF EXTENDED SUSPENSION OR REVOCATION.

6 3 Notwithstanding any provision of law to the contrary, if a  
6 4 person was not served with notice of a suspension or  
6 5 revocation under section 321.16, ~~or section 321J.9, subsection~~  
6 6 ~~4, or section 321J.12, subsection 3~~ subsection 1, paragraph  
6 7 "b", the person may appeal to the department an extension of  
6 8 the period of suspension or revocation based upon a conviction  
6 9 under section 321.218 or 321J.21. At the hearing on the  
6 10 appeal, the sole issue shall be whether the department failed  
6 11 to send notice of the underlying suspension or revocation to  
6 12 the person pursuant to section 321.16, subsection 1, paragraph  
6 13 "b" at the address contained in the department's records. If  
6 14 the department determines it failed to send such notice, the  
6 15 department shall rescind the extended suspension or revocation  
6 16 resulting from the conviction and send notice of the  
6 17 department's determination to the court that rendered the  
6 18 conviction. Upon receipt of the notice, the court shall enter  
6 19 an order exonerating the person of the conviction and ordering  
6 20 that the record of the conviction be expunged by the clerk of  
6 21 the district court.

6 22 Sec. 11. Section 321J.9, subsection 4, Code 2009, is  
6 23 amended to read as follows:

6 24 4. The effective date of revocation shall be ten days  
6 25 after the department has mailed notice of revocation to the  
6 26 person ~~by first class mail pursuant to section 321.16,~~  
6 27 ~~subsection 1, paragraph "b"~~, notwithstanding chapter 17A. The  
6 28 peace officer who requested or directed the administration of  
6 29 a chemical test may, on behalf of the department, serve  
6 30 immediate notice of intention to revoke and of revocation on a  
6 31 person who refuses to permit chemical testing. If the peace  
6 32 officer serves immediate notice, the peace officer shall take  
6 33 the Iowa license or permit of the driver, if any, and issue a  
6 34 temporary license effective for ten days. The peace officer  
6 35 shall immediately send the person's license to the department  
7 1 along with the officer's certificate indicating the person's  
7 2 refusal to submit to chemical testing.

7 3 Sec. 12. Section 321J.12, subsection 3, Code 2009, is  
7 4 amended to read as follows:

7 5 3. The effective date of the revocation shall be ten days

7 6 after the department has mailed notice of revocation to the  
7 7 person ~~by first class mail pursuant to section 321.16,~~  
7 8 ~~subsection 1, paragraph "b",~~ notwithstanding chapter 17A. The  
7 9 peace officer who requested or directed the administration of  
7 10 the chemical test may, on behalf of the department, serve  
7 11 immediate notice of revocation on a person whose test results  
7 12 indicated the presence of a controlled substance or other  
7 13 drug, or an alcohol concentration equal to or in excess of the  
7 14 level prohibited by section 321J.2, or a combination of  
7 15 alcohol and another controlled substance or drug in violation  
7 16 of section 321J.2.

7 17 EXPLANATION

7 18 This bill requires that when the department of  
7 19 transportation is authorized or required to give notice of a  
7 20 revocation or suspension of a driver's license or permit, or  
7 21 disqualification from operating a commercial motor vehicle,  
7 22 such notice shall be given by certified mail addressed to the  
7 23 person at the address shown in the records of the department.  
7 24 The bill authorizes the department of transportation to  
7 25 collect a fee from the person to whom the license or permit  
7 26 was issued totaling not more than the cost of the certified  
7 27 mail postage.  
7 28 LSB 1024YH 83  
7 29 md/nh/24.1