

Motor Vehicle Division Informational Memo # 20-24
2020 Legislation – Elimination of civil penalty for non-OWI driver’s license sanctions

DATE: July 7, 2020

FROM: Sara Siedsma, Compliance Officer, MVD

TO: All Motor Vehicle Division staff, Iowa County Treasurers and County Treasurer’s staff

SUBJECT

This informational memo explains legislation enacted during the 2020 legislative session which eliminates the civil penalty that is assessed when a person’s driver’s license is sanctioned under any Iowa Code section other than Iowa Code chapter 321J (OWI). Prior to the 2020 legislation, unless an exception applied, we assessed a civil penalty any time we sanctioned a person’s driver’s license, including for both OWI offenses and non-OWI offenses.

SUMMARY

Senate File 457 does the following:

- Civil Penalties: The bill repeals Iowa Code sections 321.218A and 321A.32A, which require the DOT to assess a civil penalty when a person’s driver’s license was sanctioned under those respective code chapters. With the repeal of those code sections, we will no longer be prevented from issuing a temporary restricted license (TRL) or reinstating a person’s driver’s license if they have unpaid non-OWI civil penalties, and beginning July 15th customers will no longer owe civil penalties for any sanction except OWI sanctions.
- Payment plans for unpaid court fines: The bill amends Iowa Code section 321.210A to strike references to a payment plan being established with the Judicial Branch’s debt collection vendor. The code will now allow the Department of Revenue to collect unpaid debt on the Judicial Branch’s behalf, including entering into payment plans. A person’s ability to enter into a payment plan for unpaid court fines with the county attorney remains unchanged. The legislation also sets the minimum threshold of unpaid court debt at \$100 before a person may enter into a payment plan unless a lower amount is set by court rule.
- Driver improvement in lieu of suspension for unlawfully passing a school bus: The bill amends Iowa Code section 321.372 regarding the criminal penalty for a first offense unlawfully passing a school bus. The bill also provides authority for us to require a person convicted of a first offense unlawfully passing a school bus to attend driver improvement in lieu of serving a driver’s license suspension. Our administrative rules already allow us the authority to send a person convicted of a first offense unlawfully passing a school bus to driver improvement, Accordingly, this code change will just provide additional backing for our current procedures, but will not cause us to implement any new procedures.

The legislation is effective July 15, 2020.

LINK TO LEGISLATION

<https://www.legis.iowa.gov/docs/publications/LGE/88/SF457.pdf>

CURRENT

- Civil Penalties: Under current law, we are required to assess a civil penalty whenever we sanction a person's driver's license, unless an exception applies. The civil penalty applies to driver's license sanctions issued under Iowa Code chapters 321, 321A and 321J. Current law also prevents us from issuing a TRL or reinstating a person's driver's license until all civil penalties are paid, or issuing a TRL unless the civil penalties were added to a payment plan established with the county attorney or the Judicial Branch's debt collection vendor.
- Payment plans for unpaid court fines: Currently, Iowa Code section 321.210A allows a payment plan for non-payment of court fines to be established with the county attorney or the Judicial Branch's debt collection vendor. There is no minimum amount of debt required by current Iowa Code before a person can enter into a payment plan.
- Driver improvement in lieu of suspension for unlawfully passing a school bus: Under current administrative rules, we have the authority to require a person convicted of a first offense unlawfully passing a school bus to attend driver improvement in lieu of serving a driver's license suspension.

NEW

- Civil Penalties: When the new legislation goes into effect on July 15, 2020, we will no longer assess a civil penalty when we issue a driver's license sanction under any Iowa Code chapter other than chapter 321J (OWI). The requirement to assess a civil penalty when a person's driver's license is sanctioned for OWI remains the same. If the customer had old civil penalties for non-OWI sanctions, after July 15th they will no longer be due and we will no longer require payment of those civil penalties as a reinstatement requirement.
- Payment plans for unpaid court fines: The new legislation allows a person to enter into a payment plan for unpaid court fines with the Department of Revenue, rather than the Judicial Branch's debt collection vendor. This should not impact MVD other than there is a different payment plan option for customers that we should be aware of. The legislation also sets the minimum threshold of unpaid court debt at \$100 before a person may enter into a payment plan unless a lower amount is set by court rule.
- Driver improvement in lieu of suspension for unlawfully passing a school bus: The legislation provides additional authority allowing us to require a person convicted of a first offense

unlawfully passing a school bus to attend driver improvement in lieu of a driver's license suspension. This does not impact MVD, but just serves as additional back-up for our current procedures.

BUSINESS IMPACT

This directive requires several process changes related to non-OWI civil penalties as of July 15, 2020.

First, we will no longer assess a civil penalty for any non-OWI driver's license sanction.

Second, we will no longer refuse to issue a TRL or reinstate a person's driver's license if their record shows they owe civil penalties tied to a non-OWI offense.

Because this legislation was passed and will be effective with very little advanced notice, we are working on programming changes to remove non-OWI civil penalties as a compliance requirement from non-OWI sanctions. Our plan is to try to run a program that will remove unpaid civil penalties from the history event on the driving record as well as the compliance screen on July 14, 2020 prior to the effective date of the legislation. Until we know programming can be changed for certain, when adding a new (non-OWI) sanction to the record the civil penalty may still appear as a compliance requirement and may also be listed on the correspondence associated with the sanction. However, as of July 15, 2020, the person will not actually owe the civil penalty for a non-OWI sanction.

Therefore, when speaking with a customer regarding the status of their driving record, or their desire to obtain a TRL or to reinstate their driver's license, it is very important when reviewing the record and the compliance screen to remember that any civil penalties that are non-OWI related are no longer owed, and are not to be considered a barrier to issuing a TRL or reinstating a person's driver's license.

HELPFUL QUESTIONS AND ANSWERS

The following questions and answers provide additional information to you and to customers.

WHAT HAPPENS IF A CUSTOMER HAS UNPAID CIVIL PENALTIES FROM NON-OWI SANCTIONS ON THEIR RECORD PRIOR TO JULY 15, 2020?

As of July 15, 2020, any unpaid civil penalties for non-OWI offenses will cease to be a compliance requirement. This means that any customer owing unpaid (non-OWI) civil penalties will essentially have those outstanding penalties forgiven.

WHAT HAPPENS IF A CUSTOMER RECEIVES A NON-OWI DRIVER'S LICENSE SANCTION ON OR AFTER JULY 15, 2020?

On and after July 15, 2020, we will no longer assess a civil penalty for a non-OWI driver's license sanction. Because we were not given adequate time to implement programming changes, the civil penalty for a non-OWI sanction may still appear on the customer's compliance screen as well as correspondence for the time being. However, when communicating with the customer about their record and when determining eligibility for a TRL or reinstatement of the driver's

license, it is of utmost importance to remember that non-OWI civil penalties are no longer a compliance requirement.

DOES THIS LAW CHANGE IMPACT CIVIL PENALTIES OWED FOR AN OWI SANCTION?

No. If a customer owes a civil penalty due to an OWI sanction, nothing changes for them because of this legislation. Any outstanding OWI civil penalties remain owed and will continue to be assessed. Additionally, the customer will not be able to obtain a TRL or reinstate their driver's license until the OWI civil penalty is paid.

WHAT HAPPENS IF A CUSTOMER OWES A CIVIL PENALTY FOR AN OWI SANCTION AS WELL AS A NON-OWI SANCTION ON OR AFTER JULY 15, 2020?

If a customer owes both an OWI and non-OWI civil penalty on or after July 15, 2020, the customer will not be able to obtain a TRL or reinstate their driver's license until the OWI civil penalty is paid. They will not need to pay the non-OWI civil penalty.

WHAT STEPS DO I TAKE TO WAIVE A CIVIL PENALTY AS A COMPLIANCE REQUIREMENT FROM A NON-OWI SANCTION UNTIL PROGRAMMING HAS REMOVED THESE PENALTIES?

As mentioned above, we are hoping to run a program to remove the civil penalty requirement from a non-OWI sanction prior to July 15, but if you encounter a civil penalty attached to a sanction on or after July 15 that appears questionable, please contact your records AA2 for further assistance.

HOW WILL CUSTOMERS OWING CIVIL PENALTIES FOR NON-OWI SANCTIONS BE MADE AWARE OF THIS CHANGE?

We will be updating our DOT website with this information and will be working on programming MyMVD to disable the option for a customer to pay a non-OWI civil penalty electronically. While we are waiting for MyMVD programming to be completed, we are looking into adding a warning message to the MyMVD log in page notifying customers that non-OWI civil penalties no longer need to be paid as of July 15, 2020. Finally, when a customer has completed all of the compliance requirements associated with a driver's license sanction and their record is otherwise clear, we issue a lift letter notifying them that they are eligible to reinstate their driver's license. This lift letter will be triggered once we complete the programming to remove all outstanding non-OWI civil penalties if that is the only remaining compliance item. Sending out the lift letter is an additional way the customer will be made aware that they no longer owe a non-OWI civil penalty.

WILL CUSTOMERS WHO PAID CIVIL PENALTIES FOR NON-OWI SANCTIONS PRIOR TO JULY 15, 2020 BE GIVEN A REFUND?

No. The law prior to July 15, 2020 required us to assess a civil penalty and the new legislation does not provide any authority for a refund. If the customer has non-OWI civil penalty money in their DOT escrow account, you should apply the funds to any OWI sanctions on the record. If there are no OWI civil penalties owed on the record, then the leftover money should be credited to the juvenile detention home fund.

WHAT HAPPENS IF A CUSTOMER ATTEMPTS TO PAY THE DOT FOR A NON-OWI CIVIL PENALTY ON OR AFTER JULY 15, 2020?

If the customer attempts to pay for a non-OWI civil penalty on or after July 15, 2020 at the counter or over the phone, it is very important to pay close attention to the customer's record and inform them that those non-OWI civil penalties are no longer owed due to the law change effective July 15, 2020.

If a customer mails in a payment for a non-OWI civil penalty on their own or pays a non-OWI civil penalty online on or after July 15, 2020, we will apply that money to any other civil penalties owing on the case or issue that customer a refund.

WHAT HAPPENS IF A CUSTOMER ATTEMPTS TO PAY A COUNTY TREASURER FOR A NON-OWI CIVIL PENALTY ON OR AFTER JULY 15, 2020?

If the customer attempts to pay a county treasurer for a non-OWI civil penalty on or after July 15, 2020 at the counter or over the phone, it is very important to pay close attention to the customer's record and inform them that those non-OWI civil penalties are no longer owed due to the law change effective July 15, 2020.

As of July 15, 2020, there is no longer authority in the code for a county treasurer to accept payment for a non-OWI civil penalty on behalf of the DOT. If a county treasurer receives payment for a non-OWI civil penalty on or after July 15, 2020, the county treasurer must return that payment to the customer.

WHAT HAPPENS IF WE RECEIVE PAYMENT OR PARTIAL PAYMENT OF A CIVIL PENALTY AS PART OF A COUNTY ATTORNEY PAYMENT PLAN FOR A NON-OWI SANCTION PRIOR TO JULY 15, 2020?

Any payment of a non-OWI civil penalty received prior to July 15, 2020 should be credited to the juvenile detention home fund as required by the code in place prior to this legislative change. Partial payments in escrow can be applied to any OWI civil penalties on the record, or credited to the juvenile detention home fund. However, beginning July 15, 2020, the customer will no longer owe the remaining amount of the civil penalty.

For example, if a customer owes \$200 for a non-OWI civil penalty as part of an existing payment plan, and the customer has already submitted their first \$50 monthly payment prior to July 15, 2020, beginning on July 15, they will not owe the remaining \$150 for the civil penalty, and their future payments will apply towards other outstanding court fines and fees included in the payment plan. Since prior to July 15, 2020, statute required the first dollars paid as part of a payment plan to count towards the civil penalty, any money that has already been applied towards partially paid non-OWI civil penalties cannot be transferred to apply to other court fines in a payment plan, but can be put towards any OWI civil penalties on the customer's record.

WHAT HAPPENS IF WE RECEIVE PAYMENT OR PARTIAL PAYMENT OF A CIVIL PENALTY AS PART OF A COUNTY ATTORNEY PAYMENT PLAN FOR A NON-OWI SANCTION ON OR AFTER JULY 15, 2020?

On or after July 15, 2020, we no longer have the authority to assess or accept payment of non-OWI civil penalties, nor do we have the authority to deposit those funds in the juvenile detention home fund. If a payment or partial payment comes to us via a county attorney payment plan, we recommend contacting the county attorney submitting the payment for instructions on where to return the payment as well as encouraging them to revise their payment plan so that they no longer send us payments for non-OWI civil penalties. We also plan to reach out to our list of county attorneys participating in the County Attorney Payment Plan (CAPP) program to inform them about this law change.

WITH THE ELIMINATION OF NON-OWI CIVIL PENALTIES, HOW WILL THE JUVENILE DETENTION FUND BE FUNDED?

To account for the loss in revenue from non-OWI civil penalties, the new law provides for alternate sources of funding for the juvenile home detention fund through changes to other court fines and fees.

HOW DO THE CHANGES REGARDING PAYMENT PLANS FOR UNPAID COURT FINES IMPACT MVD?

The legislation replaces the Judicial Branch's debt collection vendor with the Department of Revenue and gives the Department of Revenue the authority to enter into payment plans on the court's behalf for unpaid court debt. This should not significantly impact MVD as the legislation just replaces the Judicial Branch's debt collection vendor with the Department of Revenue. However, because customers often ask us questions when they owe unpaid court fines, it will be good to be aware that the Department of Revenue will now be involved in the process, in addition to county attorneys retaining their existing authority to enter into payment plans. It is also good to be aware that the legislation sets the minimum threshold of unpaid court debt at \$100 before a person may enter into a payment plan, unless a lower amount is set by court rule.

DO THESE CHANGES REGARDING NON-OWI CIVIL PENALTIES IMPACT VEHICLE REGISTRATION?

No. There is no vehicle registration stop that occurs as a result of unpaid civil penalties under Iowa Code sections 321.218A or 321A.32A. However, the current requirement has not changed which specifies that a customer cannot register a vehicle if there is an unsatisfied requirement to hold SR-22 insurance.