

Motor Vehicle Division Informational Memo # 21-11

Driver's License Sanctions Administrative Rule Updates-revised 5.27.21

DATE: May 27, 2021

FROM: Sara Siedsma, Compliance Officer, MVD

TO: All Motor Vehicle Division staff, Iowa County Treasurers and County Treasurer's staff the issue driver's licenses and non-operator's identification cards

SUBJECT

This informational memo explains updates to administrative rule chapter 761—615, Sanctions and is most applicable to staff who process or answer questions about driver's license sanctions.

SUMMARY

The updates to this rule chapter align with existing legal authority and department practice. Specifically, the rule changes do the following:

- Conform the rules to 2020 Iowa legislation which raised the age when it is illegal for a person to possess fraudulent identification for the purposes of purchasing tobacco products from 18 to 21 years old and eliminated the civil penalty for non-operating while intoxicated (OWI) driver's license sanctions.
- Add a nonpublic school authority to the list of authorities authorized to report a violation of a minor's school license because that is the person authorized to certify the need for a minor's school license for a student attending private school.
- Specify that the driver improvement program provider schedules a person's attendance at a driver improvement program which is current department practice and also clarify that if a person assigned to a driver improvement program fails to attend, that person will be issued a driver's license suspension equal to the required suspension length for the underlying offense.
- Clarify what types of sanctions are eligible for a temporary restricted license (TRL) in accordance with Iowa Code section 321.215.
- Rescind the rule authorizing the department to conduct a driver improvement interview and other outdated requirements relating to requesting an interview with a driver's license hearing officer.

The administrative rule amendments are effective April 14, 2021.

LINK TO ADMINISTRATIVE RULES

<https://www.legis.iowa.gov/docs/aco/arc/5496C.pdf>

CURRENT

Prior to this rulemaking, the rules did not yet align with the 2020 legislative changes regarding fraudulent identification for tobacco purchases and removal of the civil penalty for non-OWI sanctions, were not clear that a nonpublic school authority could report a violation of an MSL to the department,

did not specify current procedures for the driver improvement program, and did not clearly indicate when a TRL could be issued for non-OWI sanctions under section 321.215.

You may wish to review the previous informational memos (IM 20-20 and IM 20-24) we issued when the 2020 legislation regarding fraudulent identification for tobacco purchases and removal of the civil penalty for non-OWI sanctions became effective for more information about the background of the legislation.

For internal DOT employees, you may find IM 20-20 and IM 20-24 in the W drive at the address below:

W:\MotorVehicle\Policy & Communications\Memorandums\Memos\Policy Memos

For County Treasurers and staff, you may find IM 20-20 and IM 20-24 at the link to the county treasurer's manual below:

<https://iowadot.gov/mvd/ctmanual/memos/IM-20-20.pdf>

<https://iowadot.gov/mvd/ctmanual/memos/IM-20-24.pdf>

NEW

As of April 14, 2021, the rules will align with Iowa Code and our current processes outlined in the summary above.

BUSINESS IMPACT

Other than the changes to the TRLs authorized for non-OWI sanctions, this directive does not significantly impact the way that MVD operates. We have already updated our processes and programming to implement removal of the civil penalty for non-OWI sanctions. The changes clarifying that a nonpublic school authority could report a violation of an MSL to the department and specifying that the driver improvement program provider schedules a person's attendance at a driver improvement program and the suspension length for failure to attend a driver improvement program align with current department practice and programming.

Regarding the changes to the TRLs authorized for non-OWI sanctions, the questions and answers below further clarify those changes.

HELPFUL QUESTIONS AND ANSWERS

The following questions and answers provide additional clarification for staff and customers.

WHICH SANCTIONS ARE NOW ELIGIBLE FOR A TRL?

Rule 615.45 allows a person whose driver's license is suspended or revoked for driving while under suspension or revocation (SUS 12 or REV 12) to be eligible for a TRL if the person's underlying offense qualifies for a TRL. **However, legislation passed during the 2021 session and effective July 1, 2021 makes all driving while under suspension or revocation (SUS 12 or REV 12) eligible for a TRL regardless of whether the underlying offense qualifies for a TRL.** This administrative rule will be updated to comply with the 2021 legislation, but the change to TRL

eligibility for a SUS 12 and REV 12 is effective on July 1, 2021 and the legislation supersedes the administrative rule.

The rule was also amended to allow a person deemed a habitual offender under section 321.560 to obtain a TRL if the person's habitual offender status is determined under Iowa Code section 321.555(1)"c" (three or more offenses of driving while suspended, denied, revoked, or barred in a six-year period) or 321.555(2) (six moving violations in a two-year period).

Additionally, the rule was changed to align with current practice of allowing a person serving a non-payment of court fine suspension (SUS 77) or nonresident violator compact suspension to be eligible for a TRL, since no code section prohibits a TRL for either of those sanctions.

HOW WILL TRL ELIGIBILITY BE IMPACTED FOR DRIVING WHILE SUSPENDED OR REVOKED SANCTIONS (SUS 12 or REV 12) DUE TO CONVICTIONS UNDER IOWA CODE SECTION 321.218?

For many years, a person was prohibited from obtaining a TRL if they were convicted of driving while suspended or revoked under section 321.218 for a non-OWI offense, whereas a person who was convicted of driving while revoked under section 321J.21 was eligible to obtain a TRL.

We made an administrative rule change effective April 12, 2021 that clarified that if the offense underlying the section 321.218 conviction was eligible for a TRL, that we would treat these consistently with OWI revocations and issue the person a TRL for the duration of their driving while suspended or revoked sanction.

However, after the administrative rule change took effect, the legislature subsequently amended Iowa Code section 321.218 to remove the language that prohibited us from issuing a TRL to a person with a SUS 12 or REV 12. As mentioned above, beginning July 1, 2021 we will now be eligible to issue a TRL to a person serving a SUS 12 or REV 12 regardless of the offense underlying the driving while suspended or revoked conviction. Please see IM 21-21 for more information explaining the 2021 law change.

Please note, the 2021 legislation only impacted TRL eligibility for a SUS 12 or REV 12 and does not change TRL eligibility for a person who is serving multiple sanctions at the same time if one of those sanctions prohibits us from issuing a TRL. For example, if a person is serving a SUS 12 at the same time the person is serving a revocation for eluding (REV 17), we would not be able to issue the person a TRL until the REV 17 ended. This works the same as today because the REV 17, which is not a TRL eligible, prevents any TRL from being issued until the REV 17 has ended.

On the other hand, if the only sanction the person is currently serving is a SUS 12, the person will be eligible for a TRL even if the offense underlying the SUS 12 was a REV 17. As long as the REV 17 is over, it does not act as a barrier to issuing the TRL for the SUS 12 just because it was the underlying offense.

HOW WILL THESE RULE CHANGES IMPACT TRL ELIGIBILITY FOR HABITUAL OFFENDER BARS UNDER SECTION 321.560?

Current rules prohibit a person from obtaining a TRL if they are deemed a habitual offender under section 321.560. However, that code section and section 321.215(2) provide a person may obtain a TRL even if they are deemed a habitual offender if their habitual offender status is determined under Iowa Code section 321.555(1)“c” or 321.555(2).

Section 321.555(1)“c” applies when the person has three or more offenses for driving while suspended or revoked (SUS 12 or REV 12) within a six-year period and section 321.555(2) applies when the person has six or more offenses within a two-year period.

Accordingly, a person whose habitual offender status is determined under Iowa Code section 321.555(1)“c” or 321.555(2) is now eligible for a TRL with these rule changes. This rule change does not impact any other policy allowing for a TRL when a person is deemed a habitual offender.