

Motor Vehicle Division Informational Memo # 21-21

2021 Legislation – Ignition interlock devices and temporary restricted licenses

ORIGINALLY ISSUED: May 27, 2021

REVISION DATE: January 4, 2023

FROM: Kathleen Meradith-Eyers, Compliance Officer, MVD

TO: All Motor Vehicle Division staff, Iowa County Treasurers and County Treasurer's staff that issue driver's licenses and nonoperator's identification cards.

SUBJECT

This informational memo explains legislation enacted during the 2021 legislative session which addresses ignition interlock device (IID) requirements for first-offense operating while intoxicated (OWI) offenders and also temporary restricted license (TRL) eligibility for a customer serving a driver's license sanction for driving while revoked or suspended. This memo is most applicable to staff that assist customers with TRL issuance.

SUMMARY

House File 757 will allow a customer with a first offense OWI to install an IID only on all vehicles they operate as a condition of obtaining a TRL under Iowa Code chapter 321J, rather than all vehicles the customer owns or operates. The law will continue to require all customers with a second or subsequent OWI offense to install an ignition interlock device on all vehicles they own or operate. The legislation also removes the prohibition against issuing a TRL to a customer serving a driver's license sanction for driving while revoked or suspended (SUS 12 or REV 12) under Iowa Code section 321.218.

Previously issued policy memo 18-06 and informational memo 21-11, which also addressed IID and TRL requirements for OWI offenders and TRL eligibility for customers serving a driver's license sanction for a conviction under section 321.218 have been revised to align with these law changes.

The legislation is effective July 1, 2021.

LINK TO LEGISLATION

<https://www.legis.iowa.gov/docs/publications/LGE/89/HF757.pdf>

CURRENT

Under current law, any level of OWI offense requires installation of an IID on all vehicles the customer owns or operates as a condition of being issued a TRL under chapter 321J, even a first-time OWI offender. This means that any OWI offender seeking a TRL must provide proof that they have installed an IID on all vehicles they operate, as well as any vehicle registered in their name. Staff check the ARTS vehicle registration system prior to issuing a TRL to ensure the customer has provided proof of installation of an IID on all vehicles registered in the customer's name. Also, current Iowa Code has been interpreted to prohibit issuance of a TRL to a customer who is serving a driver's license sanction for driving while suspended or revoked under Iowa Code section 321.218.

NEW

As mentioned above, the legislation will allow a customer with a first offense OWI to install an IID only on all vehicles they operate as a condition of obtaining a TRL under Iowa Code chapter 321J, rather than all vehicles the customer owns or operates. The law will continue to require all customers with a second or subsequent OWI offense to install an ignition interlock device on all vehicles they own or operate. The legislation also removes the prohibition against issuing a TRL to a customer serving a driver's license sanction for driving while revoked or suspended under Iowa Code section 321.218.

BUSINESS IMPACT

This legislation will impact staff that issue TRLs to customers for OWI offenses under chapter 321J and also to customers who are serving a driver's license sanction under section 321.218.

QUESTIONS AND ANSWERS

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

WHY WAS THIS LEGISLATION ENACTED?

We believe the intent of this legislation is reduce hardships for customers with a first-offense OWI who seek a TRL. The requirement to install an IID on all vehicles owned or operated causes many customers to incur significant expense to maintain an IID in more than one vehicle or face the choice of having to transfer vehicles out of their name or simply forgo obtaining a TRL altogether. Similarly, the intent behind the change to section 321.218 is to expand TRL eligibility to more customers.

MUST I CONTINUE TO CHECK THE ARTS VEHICLE REGISTRATION SYSTEM FOR A CUSTOMER SEEKING A TRL WHO HAS A FIRST-OFFENSE OWI?

No. You no longer need to complete a vehicle registration check for a customer with a first-offense OWI. The customer will only need to provide us with information and proof of IID installation for the vehicle(s) they intend to operate.

However, if the customer has more than one OWI offense on their driving record, you must continue to perform the ARTS vehicle registration check as the customer is still required by law to install an IID on all vehicles owned or operated.

WHAT COUNTS AS A FIRST-OFFENSE OWI?

A first offense OWI means an OWI that was considered a first offense at the time of the incident.

If the customer had another OWI on their driving record when the most recent OWI occurred, but it has since dropped off the record because it has been more than 12 years, the customer is still considered to be a repeat offender. See PM #23-01 for more information on how to distinguish between first and repeat offenses.

WHAT ABOUT A CUSTOMER WITH MORE THAN ONE OWI ON THEIR DRIVING RECORD?

As mentioned above, a customer whose most recent OWI offense is a repeat offense is still required by law to install an IID on all vehicles they own or operate.

We are aware that there are times a customer may receive a criminal conviction for a first offense OWI even though the customer may actually have more than one OWI on their record. However, for purposes of issuing a TRL, we check to see if the customer has more than one OWI offense on the driving record, and if they do, they need to install an IID on all vehicles owned or operated, regardless of how the criminal conviction is classified by the court.

WHAT IF A CUSTOMER WITH A FIRST-OFFENSE OWI CURRENTLY HOLDS A TRL AND HAS AN IID INSTALLED ON ALL VEHICLES OWNED OR OPERATED?

Effective July 1, 2021, a customer with a first-offense OWI only needs to have an IID installed in the vehicle(s) they operate as a condition of their TRL.

A customer with a first-offense OWI who obtained a TRL prior to July 1, 2021 and installed an IID on all vehicles they own or operate may reapply for a TRL on or after July 1, 2021, and will only need to show proof that an IID is installed on the vehicle(s) they indicate that they intend to operate on the TRL application.

It is important for the customer to notify us which vehicle(s) they intend to operate so that we can ensure we have an IID installation notice on file for the vehicle(s) and so we can issue an amended TRL lift. However, if a customer chooses to go ahead and remove the IIDs from their additional vehicles without notifying us first and we begin to receive de-installation notices, it would also be acceptable for us to go ahead and issue an amended TRL lift to list the vehicle(s) that still have an IID installation notice on file.

WILL WE REIMBURSE A CUSTOMER WHO HAS TO PAY TO HAVE AN IID DE-INSTALLED FROM A VEHICLE OTHER THAN ONE THEY INTEND TO OPERATE ON THE TRL?

No. Prior to July 1, 2021, a customer with a first-offense OWI was required to install an IID on all vehicles they own or operate. If the customer chooses to de-install an IID on all vehicles except the one they intend to operate on or after July 1, 2021, any de-installation fee will need to be paid by the customer. This is because we correctly required an IID to be installed in all vehicles owned or operated as a condition of issuing the TRL under the law as written prior to July 1, 2021. The new legislation also did not provide for any type of refund or retroactive applicability.

With that being said, it is extremely important that staff are aware of this new law change effective July 1, 2021 and at that time are no longer advising customers with a first-offense OWI that they need to install an IID on all vehicles they own or operate. We do not want customers to incur unnecessary expenses installing IIDs on multiple vehicles since the new law only requires the IID to be installed on the vehicle the customer operates for a first-offense OWI.

WHAT IF A CUSTOMER INTENDS TO OPERATE MORE THAN ONE VEHICLE ON THE TRL?

An IID is required for any vehicle the customer intends to operate. There is no limit on the number of vehicles the customer intends to operate, but it is very important the customer is aware that the IID is required for any vehicle they operate while on the TRL. If a customer serving an OWI revocation operates a vehicle without an IID installed, that is grounds for having the TRL revoked.

WHAT DOES IT MEAN WHEN THE CODE SAYS THE IID MUST BE INSTALLED ON ALL VEHICLES OWNED OR OPERATED, DOES THAT MEAN THE CUSTOMER GETS TO CHOOSE BETWEEN INSTALLING AN IID ON VEHICLES OWNED VS. VEHICLES OPERATED?

No. Having the term “or” between owned or operated in the code legally means that the IID must be installed on all of the vehicles the customer owns as well as all of the vehicles the customer operates. If for example, the code instead said the IID must be installed on all of the vehicles “owned and operated” that would mean the customer only had to install the IID on vehicles they own and operate, effectively excusing the customer from having to install an IID on any vehicle they operate, but don’t own, or any vehicle they own, but don’t operate. **Bottom line, the law requires the IID to be installed on all vehicles the customer owns as well as all vehicles the customer operates, and effective July 1, 2021, this requirement will apply only to repeat offenders since first time OWI offenders will only have to have the IID installed on vehicles they operate.**

WHAT ABOUT RECENTLY REVISED ADMINISTRATIVE RULE 615.45 THAT ONLY ALLOWS US TO ISSUE A TRL TO A CUSTOMER WITH A SUS 12 OR REV 12 IF THE UNDERLYING OFFENSE ALLOWS A TRL?

As explained in IM 21-11, we amended administrative rule 615.45 on April 12, 2021 to allow a customer 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 customer’s underlying offense qualifies for a TRL. **However, this legislation effective July 1, 2021 makes all SUS 12 or REV 12 sanctions eligible for a TRL regardless of whether the underlying offense qualifies for a TRL.** Administrative rule 615.45 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.

Accordingly, effective July 1, 2021, a customer serving a SUS 12 or REV 12 may apply for and be issued a TRL so long as they are otherwise eligible to be issued a TRL, and that is regardless of the offense underlying the driving while suspended or revoked conviction.

Between April 14, 2021 and July 1, 2021, a customer serving a SUS 12 or REV 12 is eligible for a TRL if the customer’s underlying offense qualifies for a TRL.

WHAT IF THE CUSTOMER IS SERVING MULTIPLE SANCTIONS AT THE SAME TIME, INCLUDING A SUS 12 OR REV 12, BUT ALSO HAS ANOTHER SANCTION THAT IS NOT TRL ELIGIBLE?

Please note, the 2021 legislation only impacts TRL eligibility for a SUS 12 or REV 12 and does not change TRL eligibility for a customer who is serving multiple sanctions at the same time if one of those sanctions prohibits us from issuing a TRL.

For example, if a customer is serving a SUS 12 at the same time the customer is serving a revocation for eluding (REV 17), even today we would not be able to issue the customer a TRL until the REV 17 has ended. This will work the same after July 1, 2021 as it does today. 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 customer is currently serving is a SUS 12, the customer will be eligible for a TRL even if the offense underlying the SUS 12 was originally 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.

WHAT IF THE CUSTOMER HAS HABITUAL OFFENDER BAR AND ONE (OR MORE) OF THE CONVICTIONS INCLUDED IN THE BAR IS A CON 12?

If a CON 12 or multiple CON 12s are included in a habitual offender bar, it will not prevent us from issuing a TRL to a customer.

ARE THERE ANY CHANGES TO TRL ELIGIBILITY FOR A DRIVING WHILE REVOKED SANCTION UNDER IOWA CODE SECTION 321J.21?

No. Revocations under section 321J.21 have always been interpreted as eligible for a TRL and continue to remain eligible for a TRL even with this new legislation.