

Motor Vehicle Division Informational Memo # 18-19
Driver's License Sanctions Administrative Rules Update

DATE: December 11, 2018

FROM: Sara Siedsma, Compliance Officer, MVD

TO: All Driver & Identification Services staff, Iowa County Treasurers and County Treasurer's staff that issue driver's licenses and non-operator's identification cards.

SUBJECT

This informational memo explains an update to administrative rule chapter 761—615, Sanctions.

SUMMARY

The update to this rule chapter aligns with existing legal authority and department practice, and eliminates outdated requirements. Specifically,

- The amendments update the definition of “contributive accident.”
- The amendments specify that for serious violations of unlawfully passing a school bus and violations of the “move over, slow down” law, both convictions under the applicable Iowa Code sections or a similar ordinance will trigger a suspension. Previously, administrative law judges would sometimes rescind suspensions if the conviction was written under a local ordinance for these specific offenses.
- The amendments strike references to the driver's license suspension for drug convictions under Iowa Code section 901.5(10), as that revocation was eliminated by 2018 legislation.
- Finally, the amendments allow administrative appeals for suspensions under Iowa Code sections 321.210B (default on installment agreement) and 321.210D (vehicular homicide charge).

The administrative rule amendments are effective December 12, 2018.

LINK TO IOWA ADMINISTRATIVE RULES

<https://www.legis.iowa.gov/docs/aco/arc/4119C.pdf>

CURRENT

Previously, administrative rule chapter 761—615 did not reflect some of our current processes and procedures relating to driver's license sanctions (as summarized above).

NEW

As of December 12, 2018, the above-referenced administrative rule chapter conforms to all of our current practices and procedures related to driver's license sanctions.

BUSINESS IMPACT

This directive does not significantly impact the way that DIS operates, as the rules will now align with our current procedures.

HELPFUL QUESTIONS AND ANSWERS

The following questions and answers provide additional clarification which will be helpful to you and to customers.

RULE 761—615.32 WAS AMENDED TO ADD EXTENSION OF “SUSPENSION” UNDER IOWA CODE CHAPTER 321J, DOES THIS CHANGE ANYTHING FOR PROCESSING SANCTIONS?

No. This rule was amended to more closely align with the language in Iowa Code section 321J.21, but does not change any of our current procedures related to revocations under 321J.21. As you are aware, we do not actually suspend anyone under Iowa Code 321J, rather, we only revoke under 321J.

RULE 761—615.38 WAS AMENDED TO ALLOW FOR AN ADMINISTRATIVE APPEAL OF A VEHICULAR HOMICIDE CHARGE UNDER 321.210D, I THOUGHT WE WEREN'T ISSUING (SUS 57) SANCTIONS ANY LONGER?

This is correct, we are not issuing SUS 57 suspensions any longer. Due to a district court opinion issued in August 2018, we determined that we would no longer be able to issue suspensions under Iowa Code section 321.210D (SUS 57) until either the Iowa Code or administrative rules were further clarified. We are currently working with the county attorney's association on a solution. However, prior to us stopping issuance of the SUS 57 suspension, upon advice from our legal department, we determined that we should be offering administrative appeal rights for customers suspended for a vehicular homicide charge. So, in the event we resume issuing SUS 57 suspensions in the future, the administrative appeal right will already be in the rule.

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to sanctions

The Department of Transportation hereby amends Chapter 615, “Sanctions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.210, 321.210A, 321.210D and 321A.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.177, 321.210, 321.210A, 321.210C, 321.210D, 321.218, 321.276, 321.372, 321A.2 and 321J.21; section 321.212 as amended by 2018 Iowa Acts, House File 2502, section 96; section 321.215 as amended by 2018 Iowa Acts, House File 2502, section 97; and section 321.323A as amended by 2018 Iowa Acts, House File 2304, sections 1 to 4.

Purpose and Summary

This rule making adopts amendments to Chapter 615, which addresses the Department’s rules regarding driver’s license sanctions. In general, the amendments update an outdated office name, contact information, form references and legal references; eliminate irrelevant and redundant language to improve clarity; remove requirements that no longer match current business practices; make corrections that update rules to statutory requirements; implement legislation that affects sanctions for violations of Iowa’s “slow down, move over” law; and implement legislation that ends the practice of imposing driving sanctions for drug convictions unrelated to the operation of a motor vehicle. The amendments do not otherwise change any existing sanction or appeal processes. The following paragraphs describe the amendments in more detail.

Definitions. The amendments make changes to definitions currently included in Chapter 615. First, the amendments strike redundant language and establish a single definition for the terms “contributive accident” and “contributed to an accident.” These terms are relevant to whether a person should be sanctioned as a habitually reckless or negligent driver after being involved in multiple motor vehicle accidents under Iowa Code section 321.210 and rule 761—615.12(321) or for a serious conviction after being involved in a fatal motor vehicle accident under Iowa Code section 321.210 and 761—paragraph 615.17(2)“b,” or should be referred to remedial driver improvement after being involved in a motor vehicle accident as a young driver under Iowa Code section 321.180B and rule 761—615.42(321). The amendments do not change the meaning of the terms or the standards by which the sanctions are imposed, but only eliminate repeating the same definition in several places throughout the chapter.

Second, the amendments rescind the definition of the term “conviction free.” As the current definition indicates, the definition is only relevant to terms used in Iowa Code section 321.180B, which governs graduated driver’s licenses issued to persons aged 14 to 17. The term is not used in or relevant to any other provisions in Chapter 615, and removing the definition will have no impact on any sanction imposed under this chapter.

Periods of suspension or revocation. The amendments clarify that rule 761—615.11(321) regarding the length of time a sanction may be imposed applies both to suspensions and to revocations. The current version of this rule refers only to suspensions, but the authorizing Iowa Code sections the rule implements (Iowa Code sections 321.212 and 321.218) govern both suspensions and revocations. The words “or revocation” are added throughout the rule to accurately reflect the statute, but the sanctions or periods

of sanctions otherwise imposed under this chapter do not change. The amendments also update rule 761—615.11(321) to properly reflect the content of Iowa Code section 321.218, which provides that the Department, upon receiving notice that a person has been convicted of operating a motor vehicle while the person’s license is suspended or revoked, shall extend the period of suspension or revocation for an additional like period or for one year, whichever period is shorter. Although the Department has been properly implementing this part of Iowa Code section 321.218, the rule did not properly reflect that the extension should be limited to the shorter of an additional like period or one year. The amendment corrects this.

In conjunction with this change, the amendments also clarify that rule 761—615.11(321) does not apply to the extension of operating while intoxicated (OWI) sanctions, which is instead governed by rule 761—615.32(321). Rule 761—615.32(321) implements Iowa Code section 321J.21, which requires the Department to extend the period of license suspension, denial, revocation, or bar for an additional like period and which prohibits the Department from issuing a person a new license during the additional like period when the person is convicted of operating a motor vehicle while the person’s license is suspended, revoked, denied or barred for an OWI offense under Iowa Code chapter 321J. Iowa Code section 321J.21, unlike Iowa Code section 321.218, does not limit the extension of the additional like period to the shorter of the like period or one year, and accordingly it should remain clear that rule 761—615.32(321) separately governs extensions of sanctions for OWI offenses. Again, the Department has been correctly implementing Iowa Code section 321J.21, but the amendment will ensure that the content of the rule properly aligns to the content of Iowa Code section 321J.21.

Suspension of habitual violators. Consistent with Iowa Code section 321.276(4)“b,” which provides that convictions for use of an electronic communication device under Iowa Code section 321.276 shall not be considered a moving violation for purposes of Iowa Code chapter 321 or rules adopted under Iowa Code chapter 321, the amendments add violations of Iowa Code section 321.276 to the list of violations that shall not be used to determine whether a person should be deemed a habitual violator under Iowa Code section 321.210 and rule 716—615.13(321).

Violations of corresponding municipal ordinances. Under Iowa Code section 321.235, local authorities may adopt traffic regulations which are not in conflict with the provisions of Iowa Code chapter 321. Under this authority, many municipalities have, by ordinance, established traffic codes that include traffic regulations that correspond to traffic regulations established in Iowa Code chapter 321, and when a driver is cited in a municipality with such an ordinance, the citation and conviction are entered under the local ordinance rather than the corresponding section of Iowa Code chapter 321. Under Iowa Code section 321.491, the clerk of court is required to report to the Department all records of convictions for violations of Iowa Code chapter 321 or other laws regulating the operation of vehicles on highways, and under Iowa Code section 321.200, the Department is required to enter each conviction reported on the corresponding driver’s record and to consider each conviction when determining whether a driver is eligible for a driver’s license or should be sanctioned. Under this authority, the clerk of court reports to the Department all convictions for traffic violations, regardless of whether convictions are written under Iowa Code chapter 321 or under a corresponding municipal ordinance, and the Department then enters each conviction on the driver’s record and considers each conviction accordingly.

Despite this, in certain instances the manner in which the Department has phrased its administrative rules regarding sanctions has caused administrative law judges to disregard convictions for traffic violations written under a corresponding municipal ordinance and rescind an otherwise appropriate sanction, under the rationale that the administrative rule specified that the sanction only applied to a person convicted of violating a specified section of Iowa Code chapter 321 and a conviction written under a corresponding municipal ordinance was not a conviction under the specific section of Iowa Code chapter 321. To ensure that licensing and sanction decisions for like conduct and violations remain consistent regardless of whether the conviction was entered under a section within Iowa Code chapter 321 or a corresponding municipal ordinance, the amendments specify that the sanction may be imposed if a person is convicted of the specified section of Iowa Code chapter 321 “or a similar ordinance of any political subdivision.” The amendments affect rules imposing sanctions for illegally

passing a stopped school bus, as required by Iowa Code section 321.372(3), and for violating Iowa's "slow down, move over" law, as required by Iowa Code section 321.323A. The amendments do not change the required sanctions and do not in any way implicate civil penalties entered against a vehicle owner under automated traffic enforcement ordinances, which are not criminal traffic convictions and are not reported to Iowa's courts or to the Department.

"Slow down, move over" law. The amendments add convictions for violations of Iowa Code section 321.323A that result in damage to the property of another person or bodily injury to or death of another person, as a qualifying serious violation under rule 761—615.17(321). Iowa Code section 321.323A, often referred to as Iowa's "slow down, move over" law, requires a driver approaching a stationary vehicle displaying authorized flashing lights or emergency signal lamps to approach the vehicle with due caution and, absent any other direction by a peace officer, either make a lane change into a lane not adjacent to the stationary motor vehicle if possible in the existing safety and traffic conditions, or, if a lane change would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop. The amendments conform the rules to Iowa Code section 321.323A as amended by 2018 Iowa Acts, House File 2304, sections 1 to 4, which requires the Department to suspend the license of a person convicted of a violation of Iowa Code section 321.323A for 90 days if the violation caused only property damage to another person, for 180 days if the violation caused bodily injury to another person, and for one year if the violation caused the death of another person.

Suspension for moving violations during driving probation. Iowa Code section 321.210C provides that a person who has lost driving privileges for a moving violation under Iowa Code chapter 321 or a comparable moving violation in another jurisdiction, or for an OWI violation under Iowa Code chapter 321J, must satisfactorily complete a 12-month probation period beginning immediately after the end of the period of suspension, revocation, or bar of the person's driving privileges. Under Iowa Code section 321.210C, if the person is convicted of another moving violation committed during the driving probation (excluding the first two speeding violations that are 10 miles per hour or less in speed zones of 35 miles per hour to 55 miles per hour), the Department may suspend the person's driver's license or operating privileges for an additional period equal in duration to the original period of suspension, revocation, or bar, or for one year, whichever is the shorter period. The amendments clarify that the Department's rule implementing Iowa Code section 321.210C applies only to the period of driving probation required under Iowa Code section 321.210C (as opposed to a criminal period of probation imposed by the Iowa courts) and add language that specifies a suspension for violation of a driving probation shall be equal in duration to the original period of suspension, revocation or bar, or for one year, whichever is the shorter period, to ensure the implementing rule matches the content and requirements of Iowa Code section 321.210C.

Drug revocations. 2018 Iowa Acts, House File 2502, division XXV, section 102, repealed Iowa Code section 901.5(10), which required the Department to revoke the driver's license or motor vehicle operating privileges of a defendant convicted of certain nondriving drug offenses for a period of 180 days or to delay the issuance of a driver's license for 180 days after the person is first eligible if the defendant has not been issued a driver's license. The legislation also eliminated all references to Iowa Code section 901.5(10). To conform the rules with this legislation, the amendments remove all provisions in the Department's rules that implement or reference drug revocations previously required by Iowa Code section 901.5(10). This legislation became effective July 1, 2018, and consistent with its provisions, the Department has ended all drug revocations previously imposed and still in effect as of July 1, 2018, and discontinued the practice of imposing these revocations beginning July 1, 2018.

Appearance before an examiner. The Department's rules regarding reinstatement or reissuance of a driver's license following a period of sanction require a person to "appear before an examiner" to obtain or reinstate the license. This provision is not necessary, as any properly trained issuance staff may help a person reinstate or reissue a license. The amendment strikes outdated language, and the conditions for reinstatement or reissuance remain unchanged.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 29, 2018, as **ARC 3967C**. No public comments were received. However, the Department did receive a comment from a member of the Administrative Rules Review Committee at its meeting on September 11, 2018. The comment related to the implementation of the proposed amendment to rule 761—615.32(321) and, specifically, the extension of a habitual offender bar under Iowa Code chapter 321J. It is not Department practice to extend habitual offender bars under Iowa Code chapter 321J, nor was it the intent to change that practice with the amendments to the rule. Rather, the intent was to delineate the difference between the extension of license sanctions under Iowa Code chapters 321 and 321J and to align the rule with implementing language in the authorizing statute. Because the proposed amendment to rule 761—615.32(321) implied that the Department will begin extending habitual offender bars under Iowa Code chapter 321J, which was not the intent, the Department has revised rule 761—615.32(321) to refer only to the extension of license suspensions and revocations under Iowa Code chapter 321J. No additional changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on October 16, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 12, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **761—615.1(321)**, definitions of “Contributive accident” and “Moving violation,” as follows:

“*Contributive accident*” or “*contributed to an accident*” means the driver was involved in an accident for which there is evidence in departmental records that the driver performed an act which resulted in or contributed to the accident; or failed to perform an act which would have avoided or contributed to the avoidance of the accident.

“*Moving violation*,” unless otherwise provided in this chapter, means any violation of motor vehicle laws except:

1. Violations of equipment standards to be maintained for motor vehicles.
2. Parking violations as defined in Iowa Code section 321.210.

3. Child restraint and safety belt and harness violations under Iowa Code sections 321.445 and 321.446.
4. Violations of registration, weight and dimension laws.
5. Operating with an expired license.
6. Failure to appear.
7. Disturbing the peace with a motor vehicle.
8. Violations of Iowa Code ~~Supplement~~ section 321.20B for failure to provide proof of financial liability coverage.

ITEM 2. Rescind the definition of “Conviction free” in rule **761—615.1(321)**.

ITEM 3. Amend rule 761—615.3(17A) as follows:

761—615.3(17A) Information and address. Applications, forms and information concerning license sanctions are available at any driver’s license examination station or at the address in 761—600.2(17A) service center. Assistance is also available by mail from Driver and Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department’s website at www.iowadot.gov.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 4. Amend rule 761—615.9(321) as follows:

761—615.9(321) Habitual offender.

615.9(1) The department shall declare a person to be a habitual offender under Iowa Code ~~subsection~~ section 321.555(1) in accordance with the following point system:

a. Points shall be assigned to convictions as follows:

<u>Conviction</u>	<u>Points</u>
Perjury or the making of a false affidavit or statement under oath to the department of public safety	2 points
Driving while under suspension, revocation or denial (except Iowa Code chapter 321J)	2 points
Driving while under Iowa Code chapter 321J revocation or denial	3 points
Driving while barred	4 points
Operating a motor vehicle in violation of Iowa Code section 321J.2	4 points
An offense punishable as a felony under the motor vehicle laws of Iowa or any felony in the commission of which a motor vehicle is used	5 points
Failure to stop and leave information or to render aid as required by Iowa Code sections 321.261 and 321.263	5 points
Eluding or attempting to elude a pursuing law enforcement vehicle in violation of Iowa Code section 321.279	5 points
Serious injury by a vehicle in violation of Iowa Code subsection 707.6A(3) <u>section 707.6A(4)</u>	5 points
Manslaughter resulting from the operation of a motor vehicle	6 points

b. No change.

615.9(2) No change.

615.9(3) A person declared to be a habitual offender under Iowa Code ~~Supplement~~ section 321.560; ~~unnumbered paragraph 2~~, shall be barred from operating a motor vehicle on the highways of this state beginning on the date the previous bar expires.

This rule is intended to implement Iowa Code sections 321.555, 321.556 and 321.560.

ITEM 5. Amend rule 761—615.11(321) as follows:

761—615.11(321) Periods of suspension or revocation.

615.11(1) Length. The department shall not suspend or revoke a person's license for less than 30 days nor for more than one year unless a statute specifies or permits a different period of suspension or revocation.

615.11(2) Extension of suspension or revocation. The department shall extend the period of license suspension or revocation for an additional like period or for one year, whichever period is shorter, when the person is convicted of operating a motor vehicle while the person's license is suspended or revoked, unless a statutory exception applies. If the person's driving record does not indicate what the original grounds for suspension or revocation were, the period of license suspension or revocation shall not exceed six months.

This rule is intended to implement Iowa Code sections 321.212 and 321.218.

ITEM 6. Amend rule 761—615.12(321) as follows:

761—615.12(321) Suspension of a habitually reckless or negligent driver.

615.12(1) The department may suspend a person's license if the person is a habitually reckless or negligent driver of a motor vehicle.

a. "Habitually reckless or negligent driver" means a person who has accumulated a combination of three or more contributive accidents and convictions for moving violations or three or more contributive accidents within a 12-month period.

b. ~~"Contributive or contributed" means that there is evidence in departmental records that the driver performed an act which resulted in or contributed to an accident, or failed to perform an act which would have avoided or contributed to the avoidance of an accident.~~

615.12(2) In this rule, ~~the~~ speeding violations specified in Iowa Code ~~paragraph~~ section 321.210(2) "d" and violations under Iowa Code section 321.276 are not included.

615.12(3) No change.

This rule is intended to implement Iowa Code section 321.210.

ITEM 7. Amend subrule 615.13(3) as follows:

615.13(3) In this rule, ~~the~~ speeding violations specified in Iowa Code ~~paragraph~~ section 321.210(2) "d" and violations under Iowa Code section 321.276 are not included.

ITEM 8. Amend paragraph **615.14(1)"c"** as follows:

c. Ineligibility for licensing under Iowa Code ~~subsections~~ sections 321.177(4) to 321.177(7).

ITEM 9. Amend rule 761—615.17(321) as follows:

761—615.17(321) Suspension for a serious violation.

615.17(1) No change.

615.17(2) "Serious violation" means that:

a. No change.

b. The person was convicted of a moving violation which contributed to a fatal motor vehicle accident. ~~"Contributed" is defined in paragraph 615.12(1)"b."~~ The suspension period shall be at least 120 days.

c. No change.

d. The person was convicted of violating Iowa Code ~~subsection~~ section 321.372(3) or a similar ordinance of any political subdivision. The suspension period shall be:

(1) 30 days for a first conviction ~~under Iowa Code subsection 321.372(3)~~.

(2) 90 days for a second conviction ~~under Iowa Code subsection 321.372(3)~~.

(3) 180 days for a third or subsequent conviction ~~under Iowa Code subsection 321.372(3)~~.

e. The person was convicted of violating Iowa Code section 321.323A as amended by 2018 Iowa Acts, House File 2304, sections 1 to 4, or a similar ordinance of any political subdivision. The suspension period shall be:

- (1) 90 days for a violation causing property damage only to the property of another person.
- (2) 180 days for a violation causing bodily injury to another person.
- (3) One year for a violation causing death.

This rule is intended to implement Iowa Code sections 321.210~~;~~ 321.323A as amended by 2018 Iowa Acts, House File 2304, sections 1 to 4; 321.372~~;~~ as amended by 2012 Iowa Acts, Senate File 2218, sections 2 and 5, and 321.491.

ITEM 10. Amend rule 761—615.20(321) as follows:

761—615.20(321) Suspension for moving violation during driving probation. The department may suspend the license of a person convicted of a moving violation pursuant to Iowa Code section 321.210C. The suspension period shall ~~not exceed~~ be equal in duration to the original period of suspension, revocation or bar, or for one year, whichever is the shorter period.

This rule is intended to implement Iowa Code section 321.210C.

ITEM 11. Amend subrule 615.22(1), introductory paragraph, as follows:

615.22(1) The department shall suspend a person's privilege to operate motor vehicles in Iowa when the department is notified by a clerk of the district court ~~on Form No. 431037~~ that the person has been convicted of violating a law regulating the operation of motor vehicles, that the person has failed to pay the fine, penalty, surcharge or court costs arising out of the conviction, and that 60 days have elapsed since the person was mailed a notice of nonpayment from the clerk of the district court.

ITEM 12. Amend rule ~~761—615.23(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~232.52(2) "a"(4)~~ 232.52(2), 299.1B, 321.213, 321.213A, 321.213B, and 321.215.

ITEM 13. Amend rule 761—615.29(321) as follows:

761—615.29(321) Mandatory revocation.

615.29(1) The department shall revoke a person's license upon receipt of a record of the person's conviction for an offense listed under Iowa Code section 321.209 ~~or upon receipt of an order issued pursuant to Iowa Code subsection 901.5(10).~~

615.29(2) No change.

615.29(3) The revocation period shall be at least one year except:

a. and *b.* No change.

e. ~~The revocation period for an order issued pursuant to Iowa Code subsection 901.5(10) is 180 days.~~

This rule is intended to implement Iowa Code sections 321.209~~;~~ 321.212~~;~~ as amended by 2018 Iowa Acts, House File 2502, section 96; 321.261; and 707.6A.

ITEM 14. Amend rule 761—615.30(321) as follows:

761—615.30(321) Revocation for out-of-state offense.

615.30(1) The department may revoke an Iowa resident's license when the department is notified by another state that the person committed an offense in that state which, if committed in Iowa, would be grounds for revocation. The notice may indicate either a conviction or a final administrative decision. The period of the revocation shall be the same as if the offense had occurred in Iowa.

~~**615.30(2)** Rescinded IAB 11/20/96, effective 12/25/96.~~

This rule is intended to implement Iowa Code section 321.205.

ITEM 15. Amend rule 761—615.32(321) as follows:

761—615.32(321) Extension of suspension or revocation period under Iowa Code chapter 321J. The Anything in rule 761—615.11(321) notwithstanding, the department shall extend the period of license suspension or revocation for an additional like period when the person is convicted of

operating a motor vehicle while the person's license is suspended or revoked under Iowa Code chapter 321J.

This rule is intended to implement Iowa Code ~~sections 321.218 and~~ section 321J.21.

ITEM 16. Amend paragraph **615.38(1)“a”** as follows:

a. License denials, cancellations and suspensions under Iowa Code sections 321.177 to 321.215 and 321A.4 to 321A.11 ~~except denials under Iowa Code subsection 321.177(10) and~~ suspensions under Iowa Code sections ~~321.210B, 321.210D,~~ 321.213A and 321.213B.

ITEM 17. Amend paragraph **615.38(2)“b”** as follows:

b. A request for an informal settlement, a request for a contested case hearing, or an appeal of a presiding officer's decision shall be submitted to the director of ~~the office of driver~~ and identification services at the address in ~~761—600.2(17A)~~ rule 761—615.3(17A).

ITEM 18. Amend subrule 615.38(3) as follows:

615.38(3) Informal settlement or hearing.

a. No change.

b. Notwithstanding paragraph ~~“a” of this subrule,~~ 615.38(3)“a,” a request received from a person who has participated in a driver improvement interview on the same matter shall be deemed a request for a contested case hearing.

c. A request for an informal settlement or a request for a contested case hearing shall be deemed timely submitted if it is delivered to the director of ~~the office of driver~~ and identification services or postmarked within the time period specified in the department's notice of the sanction.

(1) and (2) No change.

ITEM 19. Amend rule 761—615.40(321) as follows:

761—615.40(321) License reinstatement or reissue. ~~A person who becomes eligible for a license after a denial, cancellation, suspension, revocation, bar or disqualification shall be notified by the department to appear before a driver license examiner to obtain or reinstate the license. The license may be issued if the person has:~~ The department may reinstate the license when the denial, cancellation, suspension, revocation, bar or disqualification has ended if the person has:

615.40(1) No change.

615.40(2) Paid the civil penalty when required. The civil penalty is specified in Iowa Code ~~Supplement~~ section 321.218A or 321A.32A.

615.40(3) to 615.40(6) No change.

This rule is intended to implement Iowa Code sections 321.186, 321.191, 321.195, 321.208, 321.212, ~~and~~ 321.218A, 321A.17 and ~~Iowa Code Supplement sections 321.218A and~~ 321A.32A.

ITEM 20. Amend rule 761—615.41(321) as follows:

761—615.41(321) Investigation of convictions based on fraud. A person requesting investigation of fraudulent use of a person's name or other fraudulent identification that resulted in a record of conviction for a scheduled violation under Iowa Code chapter 321 and listed in Iowa Code section 805.8A may submit a written application to the department using Form 420049, ~~Identity Theft Complaint.~~ The department shall review the application and may investigate, if appropriate, as required by Iowa Code section 321.200A. Form 420049 may be obtained by contacting the ~~bureau of investigation and identity protection by mail at~~ Bureau of Investigation and Identity Protection, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; ~~in person at~~ 6310 SE Convenience Blvd., Ankeny, Iowa; or on the department's ~~Web site~~ website.

This rule is intended to implement Iowa Code section 321.200A.

ITEM 21. Amend rule 761—615.45(321) as follows:

761—615.45(321) Temporary restricted license (work permit).

615.45(1) *Ineligibility.* The department shall not issue a temporary restricted license under Iowa Code ~~subsection~~ section 321.215(1) as amended by 2018 Iowa Acts, House File 2502, section 97, to an applicant:

- a. to i.* No change.
- ~~*j.*~~ Whose license has been suspended or revoked for a drug or drug-related offense.
- ~~*k. j.*~~ Whose license has been suspended due to receipt of a certificate of noncompliance from the child support recovery unit.
- ~~*l. k.*~~ Whose license has been suspended due to receipt of a certificate of noncompliance from the college student aid commission.
- ~~*m. l.*~~ Whose license has been suspended for a charge of vehicular homicide.
- ~~*n. m.*~~ Who has been suspended under Iowa Code ~~subsection~~ section 321.180B(3).

615.45(2) *Application.*

a. To obtain a temporary restricted license, an applicant shall submit a written request for an interview with a driver's license hearing officer. The request shall be submitted to ~~the office of driver and identification services~~ at the address in ~~761—600.2(17A)~~ rule 761—615.3(17A).

b. If the driver's license hearing officer approves the issuance of a temporary restricted license, the officer shall furnish to the applicant application Form 430100, which is to be completed and submitted to ~~the office of driver and identification~~ services.

c. No change.

615.45(3) No change.

615.45(4) *Additional requirements.* An applicant for a temporary restricted license shall also:

- a. and b.* No change.
- c.* Pay the required civil penalty specified in Iowa Code ~~Supplement~~ section 321.218A or 321A.32A.

615.45(5) and 615.45(6) No change.

This rule is intended to implement Iowa Code chapter 321A and sections 252J.8, 321.177, 321.178, 321.184, 321.185, 321.186, 321.189, 321.191, 321.193, 321.194, 321.201, 321.205, 321.209, 321.210, 321.210A, 321.212, 321.213A, 321.213B, 321.215, 321.218, 321.218A, 321.513 and 321.560.

ITEM 22. Rescind the chapter implementation sentence in **761—Chapter 615.**

[Filed 10/16/18, effective 12/12/18]

[Published 11/7/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/18.