

Motor Vehicle Division Policy Memo #18-06 - REVISED

2018 Legislation - Ignition Interlock Device and Temporary Restricted License Changes – Operating While Intoxicated Revocations

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

SUBJECT

This policy memo explains 2018 legislative changes and updates to interlock device (IID) and temporary restricted license (TRL) requirements in Iowa Code chapter 321J for Operating While Intoxicated (OWI) revocations.

SUMMARY

House File 2338 amended Iowa Code chapter 321J, and significantly alters the IID and TRL requirements for OWI revocations. This bill required all OWI offenders to install an IID as a condition of their TRL, removed hard suspensions for most OWI offenders and removed TRL location restrictions for OWI offenders. More specifically, the bill did the following:

- Required .08 - .10 OWI offenders, who were not previously required to install an IID as a condition of their TRL, to now install an IID as a condition of their TRL. It also required OWI offenders who tested positive for a controlled substance (drugs) to install an IID as a condition of their TRL.
- Provided that all OWI offenders (other than those convicted of vehicular homicide by OWI and those convicted of OWI causing a death under 321J.4(6)) no longer have to wait out a hard suspension period before becoming eligible for a TRL.
- Allowed OWI offenders to obtain a TRL without driving location restrictions as long as they have the IID installed in all vehicles owned or operated. In other words, a TRL written under 321J will no longer be restricted just to driving to work or school, for example. **The IID installation requirement for first-offense OWI offenders was subsequently revised to only require installation of the IID in all vehicles operated by the offender in legislation passed during the 2021 session. Please see IM 21-21 for more information about the change for first-offense OWI offenders.**
- Continued to prohibit customers under age 21 committing an offense under 321J.2A (REV 121) from obtaining a TRL.
- Continued to allow a customer revoked under 321J.21 to apply for a TRL with no IID if at least 12 years have elapsed since the end date of the underlying revocation.
- Did not address or change TRLs issued under Iowa Code section 321.215 (non-OWI sanctions).

A group of several stakeholders, including the DOT, Department of Public Safety, law enforcement groups, prosecuting attorneys, defense attorneys, industry representatives, and Mothers Against Drunk Driving (MADD)

met prior to the legislation session to advance these concepts. The collective goal was to simplify the TRL process to encourage more OWI offenders to install and comply with the IID. Data showed that many OWI offenders continued to drive (illegally) without a TRL and without an IID controlling impaired driving. This change allows drivers a less complicated path back to legal driving by utilizing the control of an IID.

The legislation was effective July 1, 2018.

LINK TO LEGISLATION

2018 Iowa Acts, House File 2338:

<https://www.legis.iowa.gov/docs/publications/LGE/87/HF2338.pdf>

QUESTIONS AND ANSWERS

The following questions and answers provide information regarding new procedures and procedures that are being eliminated or changed. This information will be helpful to you as you process TRL applications and answer customer questions regarding OWI revocations. The questions and answers are broken down into the following categories: Ignition Interlock Device, Hard Suspension, Driving Location Restrictions, Temporary Restricted License, Ineligible OWI Revocations, Form and Manual Changes and Outreach.

IGNITION INTERLOCK DEVICE

WHEN IS AN IID REQUIRED AS A CONDITION OF THE TRL FOR AN OWI REVOCATION?

Iowa Code chapter 321J was amended to require installation of an IID as a condition of a TRL for **all** OWI revocations eligible for a TRL. Previously, first time OWI revocations with a BAC of .08 - .10 did not require installation of an IID as a condition of a TRL, nor did a first time OWI revocation caused by a positive drug test; however, these OWI revocations will now be subject to the IID requirement. The only exception to the IID requirement is for a revocation issued under 321J.21 (REV12) where at least 12 years have elapsed since the end underlying revocation. In that situation, as is the case today, the customer is not required to install an IID as a condition of their TRL.

IS AN IID A CONDITION OF REINSTATEMENT FOR ALL OWI REVOCATIONS NOW?

No, the reinstatement requirements in 321J.17 were not amended. The requirement to install an IID for one year as a condition of reinstatement of the driver's license still only applies to customers with a second or subsequent OWI revocation.

DO I NEED TO DO A VEHICLE REGISTRATION CHECK FOR ALL OWI REVOCATIONS?

No. A vehicle registration check is only required if the person has more than one OWI offense on their driving record. The vehicle registration check is necessary because a person with more than one OWI offense on their record is required to install an IID on all vehicles the person owns or operates. However, a person with a first-offense OWI on their record is only required to install an IID on all vehicles the person operates.

DOES THIS LEGISLATION REQUIRE IID CAMERAS?

No, although requiring IIDs with cameras was part of the discussion and agreement of the workgroup that worked on this legislative proposal, the IID camera requirement is not in the legislation, but rather is something that will be addressed via Department of Public Safety administrative rules.

ARE CUSTOMERS WITH A POSITIVE DRUG TEST OWI REQUIRED TO INSTALL AN IID AS A CONDITION OF THEIR TRL?

Yes, the legislation does not differentiate between a customer who unlawfully operates a motor vehicle with a blood alcohol content over the legal limit or a positive drug test. Consequently, either type of offender would be required to install an IID as a condition of their TRL.

HARD SUSPENSION

WERE HARD SUSPENSIONS ELIMINATED FOR ALL OWI REVOCATIONS?

While the legislation eliminated hard suspension periods for the majority of OWI revocations, there are still two OWI revocations that have a hard suspension requirement. If the OWI is due to a vehicular homicide conviction under 707.6A, or if the OWI resulted in death and the conviction is under 321J.4(6), then both of these revocations will continue to have a hard suspension period. Other than these two OWI revocations, all other OWI revocations which previously had a hard suspension period will no longer have a hard suspension period.

DRIVING LOCATION RESTRICTIONS (TRL)

WILL A CUSTOMER WITH AN OWI REVOCATION HAVE ANY RESTRICTIONS ON THEIR TRL NOW THAT LIMIT WHERE THEY CAN DRIVE ON THE TRL?

No, if the TRL is written under 321J, there are no longer any restrictions on the TRL limiting the locations where the customer may drive. The customer will still be required to obtain SR-22 and pay the civil penalty, and comply with any other requirements of being issued a TRL, but the customer will no longer be limited to only driving to work, for example.

WILL THE TRL LIFT LETTER STILL LIST CERTAIN ADDRESSES THE CUSTOMER MAY DRIVE TO AND FROM?

No, since the OWI TRL applicant will no longer be required to obtain an employer's statement or other required statement in order to be issued a TRL, no specific addresses will be listed on the TRL lift letter any longer. See the TRL section below for more information.

DO THE DRIVING LOCATION RESTRICTIONS STILL APPLY TO NON-OWI SANCTIONS?

Yes, the legislation did not address TRLs issued under Iowa Code section 321.215. Therefore, if the TRL is written under 321.215, the driving location restrictions still apply. If a customer has sanctions that qualify for a TRL under both Iowa Code section 321.215 and chapter 321J, they will need to be issued a TRL that includes driving location restrictions under Iowa Code section 321.215, and will still be required to have an IID.

TEMPORARY RESTRICTED LICENSE

WHAT ARE THE REQUIREMENTS OF BEING ISSUED A TRL FOR AN OWI REVOCATION UNDER 321J?

As today, the customer must pay the \$200 civil penalty, provide proof of financial responsibility (SR-22) and comply with any other requirements of being issued a TRL. A customer with a first-offense OWI on their record will only need to provide proof of installation of an IID on the vehicle(s) they operate. However, a customer with more than one OWI offense on their record will need to provide proof of installation of an IID on all vehicles owned or operated.

DOES THE CUSTOMER STILL NEED TO APPLY FOR A TRL?

Yes, the customer will still be required to apply for a TRL, however, we will be utilizing a different TRL request form for OWI revocations. See the section below regarding form and manual changes for more information. Form 430400 was newly created, is the form provided in the OWI packet, and will be the form you provide to customers under OWI revocation who want to request a TRL.

WHY DID WE CREATE A NEW TRL FORM FOR OWI REVOCATIONS?

Since a customer under OWI revocation no longer needs to obtain an employer statement or other required statement, it was determined the customer no longer needed to sign the TRL application under penalty of perjury. We also wanted to distinguish the request for TRL for OWI revocations from the TRL application (430100) that will continue to be used for non-OWI sanctions. Finally, the TRL request and Hearing request used to be combined in form 432018. However, because we needed to add new information to both the TRL and the Hearing portion of the form, it was decided that we should split the form, with form 432018 only addressing the Hearing Request and new form 430400 created to address the TRL request.

WILL THE CUSTOMER STILL RECEIVE A TRL LIFT LETTER?

Yes, the customer will still receive a TRL lift letter that must be kept in the customer's vehicle at all time while operating the vehicle. However, the lift letter will be updated to reflect that the TRL issued under Iowa Code chapter 321J allows the customer to operate a motor vehicle in any manner allowed for a customer issued a valid noncommercial driver's license, unless otherwise prohibited by chapter 321J.

MAY WE STILL ISSUE A TRL FOR A CLASS D LICENSE?

Yes, the customer will receive a TRL lift letter that must be kept in the customer's vehicle at all time while operating the vehicle. The lift letter will be updated to reflect that there are no restrictions on where the person may operate their vehicle in the state of Iowa provided they remain compliant with the ignition interlock device requirements required by Iowa Code chapter 321J.

WILL A CUSTOMER ISSUED A TRL FOR AN OWI REVOCATION PRIOR TO JULY 1, 2018 BE REQUIRED TO TURN IN THEIR TRL AND APPLY FOR A NEW ONE?

No, section 9 of the legislation provided that the new requirements apply to TRLs issued on or after July 1, 2018. For example, say a customer was under revocation for a .08 BAC test result prior to July 1, 2018, and was issued a TRL with no IID requirement, but the customer was limited to driving to work.

The customer could keep their current TRL, and would not be required to install an IID, but in turn, the customer would also still be restricted to driving between their home and work.

MAY A CUSTOMER ISSUED A TRL FOR AN OWI REVOCATION PRIOR TO JULY 1, 2018 REAPPLY TO BE ISSUED A TRL UNDER THE NEW REQUIREMENTS?

Yes, on or after July 1, 2018, a customer under OWI revocation, who was previously issued a TRL under the old requirements may reapply for a TRL under the new requirements. The customer must submit a new TRL request and otherwise comply with all issuance requirements. If the customer did not previously have an IID installed, they should be issued a duplicate TRL with an “I” restriction as well as any other applicable restriction, and the fee for the duplicate is still \$10. If the customer’s TRL previously required an IID to be installed and has an “I” restriction on their license, and the customer continues to show proof of installation of an IID, the customer is not required to be issued a duplicate license, rather, their TRL lift letter can be updated to remove the driving restrictions.

WHAT IF A CUSTOMER LOSES THEIR TRL ISSUED BEFORE JULY 1, 2018, AND REAPPLIES FOR A TRL ON OR AFTER JULY 1, 2018?

If the customer was issued a TRL prior to July 1, 2018, then subsequently lost their TRL or simply needs to update their residential address, and we are merely re-issuing them a replacement (duplicate) TRL on or after July 1, 2018, the customer will not be required to install an ignition interlock device under the new requirements if they previously weren’t required to have an ignition interlock device and they don’t want to be subject to the new requirements. Rather, they can remain under the requirements of their originally issued TRL. This applies only when the TRL was originally issued before July 1, 2018.

WHAT IF A CUSTOMER MERELY WANTS TO UPDATE THE TRL LOCATION(S) OR ADDRESS ON THEIR TRL ISSUED BEFORE JULY 1, 2018 AND DOES NOT WANT TO BE ISSUED A NEW TRL UNDER THE NEW REQUIREMENTS?

If a customer originally issued a TRL prior to July 1, 2018 comes in on or after July 1, 2018 and merely wants to update the TRL location, such as providing a new employer address, or providing a new mailing address, and does not want to be issued a TRL under the new requirements, the customer will be allowed to keep their current TRL and will not be required to be issued a new TRL under the new requirements.

WHAT IF A CUSTOMER HAS BOTH A NON-OWI SANCTION ELIGIBLE FOR A TRL UNDER IOWA CODE SECTION 321.215 AND AN OWI SANCTION ELIGIBLE FOR A TRL UNDER IOWA CODE SECTION 321J.20?

If a customer has both a non-OWI sanction and an OWI sanction on their record that are eligible for a TRL under both Iowa Code section 321.215 and 321J.20, the customer is required to comply with the requirements of both code sections per the language in Iowa Code section 321.215(5) and 321J.20(9). This means that the TRL will need to be issued both with driving location restrictions (i.e., driving to work or school, etc.) according to 321.215 and the IID required under 321J. We will refer to this as a “Combo 321.215/321J” TRL.

WHAT CODE DO I USE TO AUTHORIZE THE TRL FOR A CUSTOMER THAT HAS BOTH A NON-OWI SANCTION ELIGIBLE FOR A TRL UNDER IOWA CODE SECTION 321.215 AND AN OWI SANCTION ELIGIBLE FOR A TRL UNDER IOWA CODE SECTION 321J.20?

We are working on adding a new “Combo 321.215/321J” code to programming and that is the code you will want to use to issue the TRL in this scenario, once that code is ready and available for use. In case the new combo code is not ready by July 1, you will issue the TRL under 321.215 and attach the IID requirement. Please contact your supervisor or AA2 if you need assistance with this process.

WHAT IF A CUSTOMER HAS A NON-OWI TRL AND THEN RECEIVES AN OWI UNDER IOWA CODE SECTION 321J.20?

The customer will need to reapply for the TRL so that the IID requirement can be added.

WHAT APPLICATION SHOULD THE CUSTOMER THAT HAS BOTH A NON-OWI SANCTION ELIGIBLE FOR A TRL UNDER IOWA CODE SECTION 321.215 AND AN OWI SANCTION ELIGIBLE FOR A TRL UNDER IOWA CODE SECTION 321J.20 USE TO APPLY FOR THE TRL?

We are working on revising Form 430100 so that it can be utilized for the combo TRLs. You may receive Form 430400 as the application, but if the customer falls into the combo TRL category, they will also need to fill out Form 430100 so that we can accurately capture all of the required statements and certification under penalty of perjury regarding the locations they are allowed to drive.

WHAT IF A CUSTOMER IS ON A NEW COMBO TRL AND RECEIVES ONE MOVING VIOLATION?

The TRL will need to be canceled and the customer cannot apply for another TRL while the non-OWI sanction eligible for a TRL under 321.215 remains in effect. This is because Iowa Code section 321.215(3) requires the TRL to be canceled after receiving one moving violation, and both Iowa Code section 321.215(5) and 321J.20(9) require a person qualified for a TRL under both code sections to comply with the requirements of both code sections.

WHAT HAPPENS WHEN A CUSTOMER IS ON A COMBO TRL AND THE NON-OWI REVOCATION ENDS, BUT THE OWI REVOCATION IS STILL EFFECTIVE?

The customer will likely want to reapply for a TRL that is authorized under 321J so that they are no longer required to have the driving location restrictions. They will need to come back into a service center and pay a \$10 replacement/duplicate fee.

WILL A CUSTOMER UNDER A DRIVING WHILE REVOKED (321J.21) OR A HABITUAL OFFENDER BAR (321.560) BE ISSUED A TRL UNDER IOWA CODE SECTION 321J.20?

If the customer only has a 321J.21 (REV12) revocation or a 321.560 (BAR32) bar with a J code on their record, their TRL will be authorized under 321J.20. When the new legislation was passed, 321J.20(1) and 321J.20(2) were merged, so there is no longer a 321J.20(1) TRL vs. a 321J.20(2) TRL as we knew it prior to July 1, 2018. However, if the customer also has a non-OWI revocation on their record eligible for a TRL under 321.215, then the requirements for the new combo TRL apply.

INELIGIBLE OFFENSES

ARE THERE ANY OWI REVOCATIONS THAT DO NOT QUALIFY FOR A TRL UNDER THE NEW REQUIREMENTS?

Yes, customers under the age of 21, committing an offense under 321J.2A (REV 121) are still ineligible for a TRL as they are currently.

ARE CUSTOMERS WHO ARE UNDER 21, BUT DID NOT COMMIT AN OFFENSE UNDER 321J.2A, ELIGIBLE FOR A TRL?

Yes, this changed. Customers that are under 21 (but at least 18), may now obtain a TRL if their OWI offense was not under 321J.2A. Customers under 18 are still prohibited from obtaining a TRL.

FORM AND MANUAL CHANGES

WHAT FORMS WILL BE UPDATED BECAUSE OF THESE NEW CHANGES?

We updated the following forms:

- 432013, OWI packet
- 432018, Request for Hearing/Appeal
- 432019, Operation of Iowa Code Chapter 321J, 321.208 and Your Rights
- 430100, Temporary Restricted License Application

The following form was newly created:

- 430400, Request for Temporary Restricted License – OWI Revocation

WHAT MANUALS WILL BE UPDATED BECAUSE OF THESE NEW CHANGES?

We will update the Records manual (Section H and the OWI checklists) to incorporate these new requirements.

OUTREACH

WILL WE CONDUCT ANY OUTREACH REGARDING THESE NEW REQUIREMENTS?

This legislation was the result of a broad group of interested stakeholders coming together and reaching consensus on certain core changes to the IID and TRL requirements for OWI revocations. Representation on that group included Public Safety, Law Enforcement, Mothers Against Drunk Driving, IID industry representatives, Criminal Defense Attorneys, Prosecuting Attorneys and Department of Transportation staff, so there is already a great deal of awareness about this new legislation amongst the groups that work in the OWI arena frequently.

However, in addition to these key groups already having awareness and input on the legislation, we plan to reach out to law enforcement and ask them to destroy their old OWI packets and instead utilize the new OWI packets that were updated because of these law changes.

We will also notify customers that have an OWI revocation that extends beyond July 1, 2018, and who currently holds a TRL, and let them know they can reapply for a new TRL on or after July 1, 2018 under the new requirements and plan to update information on our website. Copies of the letters that will be sent out to these customers are attached to this memo.