

Red Tape Review Rule Report (Due: September 1, 2024)

Department Name:	Transportation	Date:	7/11/24	Total Rule Count:	34
IAC #:	761	Chapter/ SubChapter/ Rule(s):	615	Iowa Code Section Authorizing Rule:	Iowa Code sections 252J.8, 307.12(1) “j,” 321.16, 321.180B, 321.194(10), 321.208, 321.210, 321.210A, 321.210D, 321.211, 321.213B, 321.513, 321.560
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of this rule chapter is to establish consistent requirements and transparency for the processes concerning all driver’s license and driving privilege sanctions the Department is required or authorized to initiate under Iowa Code (with the exception of CDL disqualifications, OWI revocations, and financial responsibility law sanctions). The chapter is intended to increase compliance with driver’s license sanctions, which are by law intended to ensure highway safety.

The chapter provides clarity and establishes important legal provisions and guidelines concerning the following:

- the offenses that trigger a sanction.
- the due process and notice periods associated with each sanction.
- the effective date and length of each sanction.
- the requirements to reinstate a driver’s license following the end of a sanction.
- the establishment of the driver improvement program, including sanctions eligible under the program.
- the eligibility and application requirements for a temporary restricted license (work permit).

Is the benefit being achieved? Please provide evidence.

Yes. In FY23, the Department was able to accurately process all of the following transactions as provided under this chapter:

- Issuance of over 95,000 driver’s license sanctions under chapter 615.
- Assignment of over 6,000 drivers to the driver improvement program.

- Issuance of over 9,000 TRLs

What are the costs incurred by the public to comply with the rule?

Individuals eligible under the rule chapter to complete a driver improvement program in lieu of a driver's license suspension incur a cost of \$125 for the 8-hour course. However, these individuals can choose to serve the suspension rather than complete the program.

Beyond this, there are no costs incurred by the public to comply with the rule other than the costs attributable to the underlying statutes which authorize and/or require the Department to impose driver's license sanctions for certain offenses and establish the costs to reinstate a driver's license or apply for a temporary restricted license.

What are the costs to the agency or any other agency to implement/enforce the rule?

There are no costs incurred by the Department to comply with the rule other than the costs attributable to the underlying statutes which authorize and/or require the Department to impose driver's license sanctions for certain offenses and to provide notice by first class mail (and prepare certified affidavits of mailing attesting to the service of notice).

The Department of Inspections, Appeals, and Licensing also incurs cost to administer contested case hearings when an individual appeals a sanction imposed under this chapter. However, this is also attributable to the underlying statutes which afford appeal rights to individuals aggrieved by an agency action.

Do the costs justify the benefits achieved? Please explain.

N/A – there are no costs incurred beyond the costs to comply with the underlying statute which requires and authorizes the Department to impose driver's license sanctions for public and highway safety.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

No alternatives were considered for the provisions of this chapter that are required by statute (such as legal service of notice, appeal procedures, and mandatory suspensions/revocations).

For the provisions of the chapter that are subject to the Department's discretionary authority, the Department identified several restrictions that can be reduced or removed, including the following:

- Reducing/aligning the suspension length under 615.43(3) for failure to attend a driver improvement program, renumbered 761-615.27(4), by making the consequence for violation of a driver improvement program (DIP) probation equivalent to the suspension length for the underlying offense committed. The current subrule requires a 90+ day suspension, whereas the proposed rule requires the new suspension to be for the length of time of the originally imposed suspension (which, for most offenses under these provisions, is 60 days).
- Eliminating the requirement that a TRL applicant needs to attest to the fact that dependent childcare is necessary for the person's employment, as the attestation is unnecessary – current 615.45(2)

- Eliminating the requirement that the applicant describe all vehicles operated on the TRL, as this is something that can be determined during roadside enforcement action if needed - current 615.45(4)

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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The following rules and subrules contained statutory redundancies, and are being rescinded, including:

- License cancellations (615.7) which was entirely redundant of Iowa Code sections 321.184, 321.185, 321.189, 321.201, and 321.215.
- The provision regarding individuals serving multiple habitual offender license bars (615.9, subrule 3), which is redundant of 321.560(4).
- The rule outlining periods of suspension or revocation (615.11) which contained language redundant of 321.212, and duplicative of other rules within the chapter that specify minimum sanction length.
- The suspension for moving violation during driving probation (615.20) which is redundant of 321.210C.
- Procedures regarding the suspension for nonpayment of fines (first paragraph of 615.22, subrule 1) which is redundant of procedures already outlined in 321.210A and 321.210B.
- Revocation of a minor's license (615.33) which was entirely redundant of provisions in 321.178 and 321.194.

The following rules were duplicative and are being consolidated from multiple rules into a single rule:

- Denial for incapability (615.4) and Suspension for incapability (615.14), renumbered 615.7.
- Suspension for out of state offense (615.16) and revocation for out of state offense (615.30), renumbered 615.9.

Portions of the following subrules are being consolidated into proposed new 615.21, as they contained redundancies regarding service of notice:

- 10-day notice for cancellations – current 615.4(4)
- 30-day notice for suspension of unpaid child support – current 615.16(1)(b)
- 30-day notice for suspension under nonresident violator compact – current 615.18(2)
- 30-day notice for suspension for nonpayment of fine, penalty, surcharge or court costs - current 615.22(1)

Additionally, the Department proposes the following changes to correct redundant, outdated, and duplicative language or to align with updated statute or case law:

- Revise rule 615.19 (renumbered rule 615.12), which implements the suspension of individuals charged with vehicular homicide under 321.210D, in accordance with a 2020 Polk County District Court case (Belez), which concluded that the lack of a meaningful hearing appropriate to the nature of the case to challenge the suspension mandated in §321.210D prior to conviction or other disposition in the criminal cause violated procedural due process rights. In response to this decision, the proposed rule does the following:

- Establishes parameters relative to the appeal and hearing process pursuant to the rule-making authority set forth in 321.210D(2).
- Provides that such a suspension is eligible to be stayed during the appeal proceedings, and that a person serving such a suspension may be eligible for a temporary restricted license (work permit).
- Eliminate the “suspension for unlawful use of a license” in 761-615.15 (renumbered 761-615.8) based solely on receipt of a conviction under Iowa Code sections 321.216A-216C, in alignment with a series of contested case decisions (Case No. 22DOTOT0454 and 22DOTOT0455). Under the proposed rules, the Department would continue to implement Iowa Code section 321.210(1)“a”(4) by imposing the suspension upon receipt of a conviction under 321.216 or report of unlawful or fraudulent use of the person’s DOT-issued license. These changes will align with Department practice.
- Eliminate outdated references in 761-615.17 (renumbered 615.10) to 84 GA, ch1015. Iowa Code section 321.372 has undergone subsequent changes, and the determination of unlawful school bus passing has now been well-established as a serious violation, pursuant to Department under Iowa Code section 321.210, so there is no need for further reference to session law.
- Conform rule 615.21 (renumbered 615.13) regarding suspension of a minor’s school license and minor’s restricted license with changes due to 2024 Iowa Acts, Senate File 2109. The changes:
 - Replace the prior optional minor school license suspension with the new mandatory suspension under SF 2109, section 6.
 - Provide that the suspensions may be concurrent and that each suspension requires a separate three-month waiting period under the new law.
 - Identify what constitutes “evidence that the licensee violated restrictions of the license,” and provides that any suspension terminates when the person turns 18.
- Make additional conforming changes required due to 2024 Iowa Acts, SF 2109, including:
 - Replacing the term “minor’s school license” with “special minor’s restricted license” and the term “minor’s restricted license” with “minor’s restricted work license” in 615.21, 615.23 and 615.45 (renumbered 615.13, 615.15 and 615.28)
 - Providing that a juvenile suspended for certain offenses must meet the requirements of a special minor’s restricted license for either educational or employment purposes (rather than educational purposes only) in order to obtain a temporary restricted license for those purposes.
- Update the language in 615.23 (renumbered 615.15) to ensure alignment of the juvenile license suspension processes with the authorizing statutes, 299.1B and 321.213B.
- Update the rule regarding the “remedial driver improvement” action under 321.180B for minor drivers, current rule 615.42 and renumbered 615.26. The changes include eliminating the vision screening requirement and adding the option to include a safety consultation or educational program, consistent with the department’s posture of promoting education for teens subject to this statutory program.
- Correct the suspension length under 615.43(3) for failure to attend a driver improvement program, renumbered 761-615.27(4), by making the consequence for violation of a driver improvement program (DIP) probation equivalent to the suspension length for the underlying offense committed. The current subrule requires a 90+ day suspension, whereas the proposed rule requires the new suspension to be for the length of time of the originally imposed suspension (which, for most offenses under these provisions, is 60 days).
- Make several modernizing and clarifying changes to the temporary restricted license (work permit) under current rule 615.45, renumbered 615.28, including the following:

- Eliminate the requirement that a TRL applicant needs to attest to the fact that dependent childcare is necessary for the person's employment, as the attestation is unnecessary – current 615.45(2).
- Eliminate unnecessary requirement that the applicant describe all vehicles operated on the TRL, as this is something that can be determined during roadside enforcement action if needed - current 615.45(4).
- Add that dependent adult care (if necessary for employment) is an allowable use of the TRL, in response to numerous requests from the public and to provide consistency with the permission for dependent childcare.
- Incorporate changes made by 2023 Iowa Acts HF 358 to no longer prohibit a person revoked under section 321.209(7) from getting a temporary restricted license.

RULES PROPOSED FOR REPEAL (list rule number[s]):

761.615.4 Denial for incapability
 761.615.5 Reserved
 761.615.6 Reserved
 761.615.7 Cancellations.
 761.615.8 Reserved
 761.615.10 Reserved
 761.615.11 Periods of suspension or revocation
 761.615.20 Suspension for moving violation during driving probation
 761.615.25 Reserved
 761.615.27 Reserved
 761.615.28 Reserved
 761.615.31 Reserved
 761.615.33 Revocation of a minor's license
 761.615.34 Reserved
 761.615.35 Reserved
 761.615.44 Driver improvement interview

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

761.615.1 Definitions.
 761.615.2 Scope.
 761.615.3 Information and address.
 761.615.4 Habitual offender.
 761.615.5 Suspension of habitually reckless or negligent driver.
 761.615.6 Suspension of habitual violator.
 761.615.7 Suspension or denial for incapability.
 761.615.8 Suspension for unlawful use of a license.

- 761.615.9 Suspension or revocation for out-of-state offense.
- 761.615.10. Suspension for a serious violation.
- 761.615.11. Suspension under the nonresident violator compact.
- 761.615.12 Suspension for a charge of vehicular homicide; hearing and appeal process
- 761.615.13 Suspension of a special minor’s restricted license and minor’s restricted license.
- 761.615.14 Suspension for nonpayment of fine, penalty, surcharge, or court costs.
- 761.615.15 Suspension for juveniles.
- 761.615.16 Suspension upon receipt of a certificate of noncompliance.
- 761.615.17 Suspension for violation of a license restriction.
- 761.615.18 Mandatory revocation.
- 761.615.19 Extension of suspension or revocation period under Iowa Code chapter 321J.
- 761.615.20 Effective date of sanction.
- 761.615.21 Service of notice.
- 761.615.22 Hearing and appeal process.
- 761.615.23 Surrender of license.
- 761.615.24 License reinstatement or reissue.
- 761.615.25 Investigation of convictions based on fraud.
- 761.615.26 Remedial driver improvement.
- 761.615.27 Driver improvement program.
- 761.615.28 Temporary restricted license (work permit).

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	5
Proposed word count reduction after repeal and/or re-promulgation	971
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	75

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

Yes, the Department recommends that explicit rulemaking authority be added to certain Iowa Code sections for the implementation of mandatory and authorized driver’s license sanctions. While the statute clearly vests the Department with the authority to impose the sanctions and to require certain actions (such as surrendering a driver’s license following a sanction), the Department relies on general agency rulemaking authority in Iowa Code section 307.12(1)“j” to promulgate the following rules that provide specific procedures implementing the statutory authority:

615.21 - Suspension of a special minor’s restricted license and minor’s restricted work license. We recommend adding rulemaking authority to Iowa Code section 321.178(2) regarding the length of the suspension for the minor’s restricted work license.

615.23 - Suspension for juveniles. We recommend adding rulemaking authority to Iowa Code section 321.213A to implement the procedures under subrule 615.15(1).

615.26 - Suspension for violation of a license restriction. We recommend adding rule making authority to Iowa Code section 321.193(2) for the suspensions implemented under this rule.

615.29 - Mandatory revocation. We recommend adding rulemaking authority to Iowa Code section 321.209 confirming the Department's authority to implement the requirements under the statute, including what specifically constitutes proof of a felony committed while using a motor vehicle as contemplated in section 321.209(2).

615.32 - Extension of suspension or revocation period under Iowa Code chapter 321J. We recommend adding rulemaking authority to Iowa Code section 321J.21 confirming the Department's authority to implement the suspension or revocation extension provisions under the statute.

615.39 - Surrender of license. We recommend adding rulemaking authority to Iowa Code section 321.212 confirming the Department's authority to require a sanctioned driver's license to be surrendered.

615.43 - Driver improvement program. We recommend adding rulemaking authority to Iowa Code section 321.210 confirming the Department's authority to offer a driver improvement program for qualifying offenses in lieu of issuing a driver's license sanction.

615.45 - Temporary restricted license (work permit). We recommend adding rulemaking authority to Iowa Code section 321.215 confirming the Department's authority to issue temporary restricted licenses, including setting forth the application process.