

By Senator Lynn

7-727-04

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A bill to be entitled  
An act relating to commercial motor vehicles;  
amending s. 316.302, F.S.; deleting certain  
exemptions relating to compliance with federal  
regulations for persons who operate commercial  
motor vehicles solely in intrastate commerce;  
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (2) of section 316.302,  
Florida Statutes, are amended to read:

316.302 Commercial motor vehicles; safety regulations;  
transporters and shippers of hazardous materials;  
enforcement.--

(1)(a) All owners and drivers of commercial motor  
vehicles that are operated on the public highways of this  
state while engaged in interstate commerce are subject to the  
rules and regulations contained in 49 C.F.R. parts 382, 385,  
and 390-397.

(b) ~~Except as otherwise provided in this section,~~All  
owners or drivers of commercial motor vehicles that are  
engaged in intrastate commerce are subject to the rules and  
regulations contained in 49 C.F.R. parts 382, 385, and  
390-397, with the exception of 49 C.F.R. s. 390.5 as it  
relates to the definition of bus, as such rules and  
regulations existed on October 1, 2002.

(c) Except as provided in s. 316.215(5), and except as  
provided in s. 316.228 for rear overhang lighting and flagging  
requirements for intrastate operations, the requirements of

1 this section supersede all other safety requirements of this  
2 chapter for commercial motor vehicles.

3 ~~(2)(a) A person who operates a commercial motor~~  
4 ~~vehicle solely in intrastate commerce not transporting any~~  
5 ~~hazardous material in amounts that require placarding pursuant~~  
6 ~~to 49 C.F.R. part 172 need not comply with 49 C.F.R. ss.~~  
7 ~~391.11(b)(1) and 395.3(a) and (b).~~

8 ~~(b) A person who operates a commercial motor vehicle~~  
9 ~~solely in intrastate commerce not transporting any hazardous~~  
10 ~~material in amounts that require placarding pursuant to 49~~  
11 ~~C.F.R. part 172 is exempt from 49 C.F.R. s. 395.3(a) and (b)~~  
12 ~~and may, after 8 hours' rest, and following the required~~  
13 ~~initial motor vehicle inspection, be permitted to drive any~~  
14 ~~part of the first 15 on-duty hours in any 24-hour period, but~~  
15 ~~may not be permitted to operate a commercial motor vehicle~~  
16 ~~after that until the requirement of another 8 hours' rest has~~  
17 ~~been fulfilled. The provisions of this paragraph do not apply~~  
18 ~~to drivers of public utility vehicles or authorized emergency~~  
19 ~~vehicles during periods of severe weather or other~~  
20 ~~emergencies.~~

21 ~~(c) A person who operates a commercial motor vehicle~~  
22 ~~solely in intrastate commerce not transporting any hazardous~~  
23 ~~material in amounts that require placarding pursuant to 49~~  
24 ~~C.F.R. part 172 may not be on duty more than 72 hours in any~~  
25 ~~period of 7 consecutive days, but carriers operating every day~~  
26 ~~in a week may permit drivers to remain on duty for a total of~~  
27 ~~not more than 84 hours in any period of 8 consecutive days;~~  
28 ~~however, 24 consecutive hours off duty shall constitute the~~  
29 ~~end of any such period of 7 or 8 consecutive days. This weekly~~  
30 ~~limit does not apply to a person who operates a commercial~~  
31 ~~motor vehicle solely within this state while transporting,~~

1 ~~during harvest periods, any unprocessed agricultural products~~  
2 ~~that are subject to seasonal harvesting from place of harvest~~  
3 ~~to the first place of processing or storage or from place of~~  
4 ~~harvest directly to market. Upon request of the Department of~~  
5 ~~Transportation, motor carriers shall furnish time records or~~  
6 ~~other written verification to that department so that the~~  
7 ~~Department of Transportation can determine compliance with~~  
8 ~~this subsection. These time records must be furnished to the~~  
9 ~~Department of Transportation within 10 days after receipt of~~  
10 ~~that department's request. Falsification of such information~~  
11 ~~is subject to a civil penalty not to exceed \$100. The~~  
12 ~~provisions of this paragraph do not apply to drivers of public~~  
13 ~~utility vehicles or authorized emergency vehicles during~~  
14 ~~periods of severe weather or other emergencies.~~

15 ~~(d) A person who operates a commercial motor vehicle~~  
16 ~~solely in intrastate commerce not transporting any hazardous~~  
17 ~~material in amounts that require placarding pursuant to 49~~  
18 ~~C.F.R. part 172 within a 200 air-mile radius of the location~~  
19 ~~where the vehicle is based need not comply with 49 C.F.R. s.~~  
20 ~~395.8, except that time records shall be maintained as~~  
21 ~~prescribed in 49 C.F.R. s. 395.1(e)(5).~~

22 ~~(e) A person who operates a commercial motor vehicle~~  
23 ~~solely in intrastate commerce is exempt from subsection (1)~~  
24 ~~while transporting agricultural products, including~~  
25 ~~horticultural or forestry products, from farm or harvest place~~  
26 ~~to the first place of processing or storage, or from farm or~~  
27 ~~harvest place directly to market. However, such person must~~  
28 ~~comply with 49 C.F.R. parts 382, 392, and 393, and with 49~~  
29 ~~C.F.R. ss. 396.3(a)(1) and 396.9. A vehicle or combination of~~  
30 ~~vehicles operated pursuant to this paragraph having a gross~~  
31 ~~vehicle weight of 26,001 pounds or more or having three or~~

1 ~~more axles on the power unit, regardless of weight, must~~  
2 ~~display the name of the vehicle owner or motor carrier and the~~  
3 ~~municipality or town where the vehicle is based on each side~~  
4 ~~of the power unit in letters that contrast with the background~~  
5 ~~and that are readable from a distance of 50 feet. A person who~~  
6 ~~violates this vehicle identification requirement may be~~  
7 ~~assessed a penalty as provided in s. 316.3025(3)(a).~~

8 ~~(f) A person who operates a commercial motor vehicle~~  
9 ~~having a declared gross vehicle weight of less than 26,000~~  
10 ~~pounds solely in intrastate commerce and who is not~~  
11 ~~transporting hazardous materials in amounts that require~~  
12 ~~placarding pursuant to 49 C.F.R. part 172, or who is~~  
13 ~~transporting petroleum products as defined in s. 376.301(31),~~  
14 ~~is exempt from subsection (1). However, such person must~~  
15 ~~comply with 49 C.F.R. parts 382, 392, and 393, and with 49~~  
16 ~~C.F.R. ss. 396.3(a)(1) and 396.9.~~

17 ~~(g) A person whose driving record shows no convictions~~  
18 ~~for the preceding 3 years and who, as of October 1, 1988, is~~  
19 ~~employed as a driver-salesperson, as defined in 49 C.F.R. s.~~  
20 ~~395.2, and who operates solely in intrastate commerce, is~~  
21 ~~exempt from 49 C.F.R. part 391.~~

22 ~~(h) A person who is an employee of an electric~~  
23 ~~utility, as defined in s. 361.11, or a telephone company, as~~  
24 ~~defined in s. 364.02, and who operates a commercial motor~~  
25 ~~vehicle solely in intrastate commerce and within a 200~~  
26 ~~air-mile radius of the location where the vehicle is based, is~~  
27 ~~exempt from 49 C.F.R. ss. 396.11 and 396.13 and 49 C.F.R. part~~  
28 ~~391, subparts D and E.~~

29 ~~(i) A person who was a regularly employed driver of a~~  
30 ~~commercial motor vehicle on July 4, 1987, and whose driving~~  
31 ~~record shows no traffic convictions, pursuant to s. 322.61,~~

1 ~~during the 2-year period immediately preceding the application~~  
2 ~~for the commercial driver's license, and who is otherwise~~  
3 ~~qualified as a driver under 49 C.F.R. part 391, and who~~  
4 ~~operates a commercial vehicle in intrastate commerce only,~~  
5 ~~shall be exempt from the requirements of 49 C.F.R. part 391,~~  
6 ~~subpart E, s. 391.41(b)(10). However, such operators are still~~  
7 ~~subject to the requirements of ss. 322.12 and 322.121. As~~  
8 ~~proof of eligibility such driver shall have in his or her~~  
9 ~~possession a physical examination form dated within the past~~  
10 ~~24 months.~~

11 ~~(j) A person who is otherwise qualified as a driver~~  
12 ~~under 49 C.F.R. part 391, who operates a commercial motor~~  
13 ~~vehicle in intrastate commerce only, and who does not~~  
14 ~~transport hazardous materials in amounts that require~~  
15 ~~placarding pursuant to 49 C.F.R. part 172, is exempt from the~~  
16 ~~requirements of 49 C.F.R. part 391, subpart E, ss.~~  
17 ~~391.41(b)(3) and 391.43(e), relating to diabetes.~~

18 (d)(k) A person holding a commercial driver's license  
19 who is a regularly employed driver of a commercial motor  
20 vehicle and is subject to an alcohol and controlled substance  
21 testing program related to that employment shall not be  
22 required to be part of a separate testing program for  
23 operating any bus owned and operated by a church when the  
24 driver does not receive any form of compensation for operating  
25 the bus and when the bus is used to transport people to or  
26 from church-related activities at no charge. The provisions of  
27 this paragraph may not be implemented if the Federal  
28 Government notifies the department that implementation will  
29 adversely affect the allocation of federal funds to the state.

30 Section 2. This act shall take effect July 1, 2004.

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SENATE SUMMARY

Deletes exemptions from compliance with federal regulations for persons who operate commercial motor vehicles solely in intrastate commerce.