

Bill No. CS for SB 454

Barcode 871988

CHAMBER ACTION

Senate

House

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The Committee on Governmental Oversight and Productivity
(Sebesta) recommended the following amendment:

Senate Amendment (with title amendment)

On page 15, between lines 26 and 27,

insert:

Section 13. Subsections (1), (2), (3), (7), (8), and
(10) of section 322.61, Florida Statutes, are amended to read:

322.61 Disqualification from operating a commercial
motor vehicle.--

(1) A person who, for offenses occurring within a
3-year period, is convicted of two of the following serious
traffic violations or any combination thereof, arising in
separate incidents committed in a commercial motor vehicle
shall, in addition to any other applicable penalties, be
disqualified from operating a commercial motor vehicle for a
period of 60 days. A person who, for offenses occurring within
a 3-year period, is convicted of two of the following serious
traffic violations or any combination thereof, arising in
separate incidents committed in a noncommercial motor vehicle

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1 shall, in addition to any other applicable penalties, be
 2 disqualified from operating a commercial motor vehicle for a
 3 period of 60 days if such convictions result in the
 4 suspension, revocation, or cancellation of the licenseholder's
 5 driving privilege:

6 (a) A violation of any state or local law relating to
 7 motor vehicle traffic control, other than a parking violation,
 8 a weight violation, or a vehicle equipment violation, arising
 9 in connection with a crash resulting in death or personal
 10 injury to any person;

11 (b) Reckless driving, as defined in s. 316.192;

12 (c) Careless driving, as defined in s. 316.1925;

13 (d) Fleeing or attempting to elude a law enforcement
 14 officer, as defined in s. 316.1935;

15 (e) Unlawful speed of 15 miles per hour or more above
 16 the posted speed limit;

17 (f) Driving a commercial motor vehicle, owned by such
 18 person, which is not properly insured;

19 (g) Improper lane change, as defined in s. 316.085; ~~or~~

20 (h) Following too closely, as defined in s. 316.0895; ~~or~~

21 (i) Driving a commercial vehicle without obtaining a
 22 commercial driver's license;

23 (j) Driving a commercial vehicle without the proper
 24 class of commercial driver's license or without the proper
 25 endorsement; or

26 (k) Driving a commercial vehicle without a commercial
 27 driver's license in possession. Any individual who provides
 28 proof to the Clerk of Court or designated official in the
 29 jurisdiction where the citation was issued, by the date the
 30 individual must appear in court or pay any fine for such a
 31 violation, that the individual held a valid CDL on the date

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1 the citation was issued, shall not be guilty of this offense.

2 (2) Any person who, for offenses occurring within a
3 3-year period, is convicted of three serious traffic
4 violations specified in subsection (1) or any combination
5 thereof, arising in separate incidents committed in a
6 commercial motor vehicle shall, in addition to any other
7 applicable penalties, including, but not limited to, the
8 penalty provided in subsection (1), be disqualified from
9 operating a commercial motor vehicle for a period of 120 days.

10 A person who, for offenses occurring within a 3-year period,
11 is convicted of three serious traffic violations specified in
12 subsection (1) or any combination thereof, arising in separate
13 incidents committed in a noncommercial motor vehicle shall, in
14 addition to any other applicable penalties, including, but not
15 limited to, the penalty provided in subsection (1), be
16 disqualified from operating a commercial motor vehicle for a
17 period of 120 days if such convictions result in the
18 suspension, revocation, or cancellation of the licenseholder's
19 driving privilege.

20 (3) Except as provided in subsection (4), any person
21 who is convicted of one of the following offenses shall, in
22 addition to any other applicable penalties, be disqualified
23 from operating a commercial motor vehicle for a period of 1
24 year:

25 (a) Driving a commercial motor vehicle while he or she
26 is under the influence of alcohol or a controlled substance;

27 (b) Driving a commercial motor vehicle while the
28 alcohol concentration of his or her blood, breath, or urine is
29 .04 percent or higher;

30 (c) Leaving the scene of a crash involving a
31 commercial motor vehicle driven by such person;

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1 (d) Using a commercial motor vehicle in the commission
2 of a felony;

3 (e) Driving a commercial motor vehicle while in
4 possession of a controlled substance; ~~or~~

5 (f) Refusing to submit to a test to determine his or
6 her alcohol concentration while driving a commercial motor
7 vehicle;:-

8 (g) Driving a commercial vehicle while the
9 licenseholder's commercial driver's license is suspended,
10 revoked, or canceled or while the licenseholder is
11 disqualified from driving a commercial vehicle; or

12 (h) Causing a fatality through the negligent operation
13 of a commercial motor vehicle.

14 (7) A person whose privilege to operate a commercial
15 motor vehicle is disqualified under this section may, if
16 otherwise qualified, be issued a ~~Class D or~~ Class E driver's
17 license, pursuant to s. 322.251.

18 (8) A driver who is convicted of or otherwise found to
19 have committed a violation of an out-of-service order while
20 driving a commercial motor vehicle is disqualified as follows:

21 (a) Not less than 90 days nor more than 1 year if the
22 driver is convicted of or otherwise found to have committed a
23 first violation of an out-of-service order.

24 (b) Not less than 1 year nor more than 5 years if, for
25 offenses occurring during any 10-year period, the driver is
26 convicted of or otherwise found to have committed two
27 violations of out-of-service orders in separate incidents.

28 (c) Not less than 3 years nor more than 5 years if,
29 for offenses occurring during any 10-year period, the driver
30 is convicted of or otherwise found to have committed three or
31 more violations of out-of-service orders in separate

1 incidents.

2 (d) Not less than 180 days nor more than 2 years if
3 the driver is convicted of or otherwise found to have
4 committed a first violation of an out-of-service order while
5 transporting hazardous materials required to be placarded
6 under the Hazardous Materials Transportation Act, 49 U.S.C.
7 ss. 5101 et seq., or while operating motor vehicles designed
8 to transport more than 15 passengers, including the driver. A
9 driver is disqualified for a period of not less than 3 years
10 nor more than 5 years if, for offenses occurring during any
11 10-year period, the driver is convicted of or otherwise found
12 to have committed any subsequent violations of out-of-service
13 orders, in separate incidents, while transporting hazardous
14 materials required to be placarded under the Hazardous
15 Materials Transportation Act 49 U.S.C. ss. 5101 et seq., or
16 while operating motor vehicles designed to transport more than
17 15 passengers, including the driver.

18 (10)(a) A driver must be disqualified for not less
19 than 60 days if the driver is convicted of or otherwise found
20 to have committed a first violation of a railroad-highway
21 grade crossing violation.

22 (b) A driver must be disqualified for not less than
23 120 days if, for offenses occurring during any 3-year period,
24 the driver is convicted of or otherwise found to have
25 committed a second railroad-highway grade crossing violation
26 in separate incidents.

27 (c) A driver must be disqualified for not less than 1
28 year if, for offenses occurring during any 3-year period, the
29 driver is convicted of or otherwise found to have committed a
30 third or subsequent railroad-highway grade crossing violation
31 in separate incidents.

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1 Section 14. Paragraph (b) of subsection (9) of section
2 768.28, Florida Statutes, is amended to read:

3 768.28 Waiver of sovereign immunity in tort actions;
4 recovery limits; limitation on attorney fees; statute of
5 limitations; exclusions; indemnification; risk management
6 programs.--

7 (9) (b) As used in this subsection, the term:

8 1. "Employee" includes any volunteer firefighter, any
9 volunteer highway patrol troop surgeon appointed by the
10 director of the Florida Highway Patrol, and any volunteer
11 licensed health professional appointed by the director of the
12 Florida Highway Patrol to work under the medical direction of
13 a highway patrol troop surgeon.

14 2. "Officer, employee, or agent" includes, but is not
15 limited to, any health care provider when providing services
16 pursuant to s. 766.1115, any member of the Florida Health
17 Services Corps, as defined in s. 381.0302, who provides
18 uncompensated care to medically indigent persons referred by
19 the Department of Health, and any public defender or her or
20 his employee or agent, including, among others, an assistant
21 public defender and an investigator.

22
23 (Redesignate subsequent sections.)

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26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 On page 2, line 18, after the semicolon

29

30 insert:

31 amending s. 322.61, F.S.; specifying additional

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1 violations that disqualify a person from
2 operating a commercial motor vehicle; providing
3 penalties; providing an exception to the
4 requirement that a commercial driver license be
5 in possession of the commercial driver;
6 removing requirements for a Class D driver's
7 license; amending s. 768.28, F.S.; providing
8 that certain medical professionals volunteering
9 for Florida Highway Patrol service are
10 considered employees of the state for sovereign
11 immunity purposes;

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