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1
 2 An act relating to regulation of commercial motor
 3 vehicles; amending s. 316.302, F.S.; revising federal
 4 regulations to which owners and operators of certain
 5 commercial motor vehicles are subject; deleting
 6 obsolete language; amending s. 322.01, F.S.; revising
 7 and providing definitions; amending s. 322.02, F.S.;
 8 charging the Department of Highway Safety and Motor
 9 Vehicles with the administration and enforcement of
 10 certain federal regulations; amending s. 322.05, F.S.;
 11 prohibiting the department from issuing a commercial
 12 motor vehicle license to a person who is ineligible
 13 under certain federal regulations; amending s. 322.07,
 14 F.S.; revising circumstances under which the
 15 department shall issue a temporary commercial
 16 instruction permit; amending s. 322.21, F.S.; applying
 17 a reinstatement service fee to a person whose
 18 privilege to operate a commercial vehicle has been
 19 downgraded; applying a filing fee to a person applying
 20 for or seeking to renew, transfer, or make any other
 21 change to a commercial driver license or temporary
 22 commercial instruction permit; amending s. 322.31,
 23 F.S.; requiring that the final orders and rulings of
 24 the department wherein a commercial driver license or
 25 temporary commercial instruction permit is downgraded

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26 | be reviewable; creating s. 322.591, F.S.; requiring
 27 | the department to obtain a person's driving record
 28 | from the Commercial Driver's License Drug and Alcohol
 29 | Clearinghouse; prohibiting the department from
 30 | performing certain actions for a person who is
 31 | prohibited from operating a commercial motor vehicle
 32 | under certain federal regulations; requiring the
 33 | department to downgrade a commercial driver license or
 34 | temporary commercial instruction permit of a person
 35 | who is prohibited from operating a commercial motor
 36 | vehicle under such regulations and to record such
 37 | downgrade in the Commercial Driver's License
 38 | Information System; requiring the department to
 39 | provide to such person certain notification and, upon
 40 | request, an opportunity for an informal hearing;
 41 | providing hearing requirements; requiring the
 42 | department to enter a final order directing the
 43 | downgrade of the person's commercial driver license or
 44 | temporary commercial instruction permit under certain
 45 | circumstances; providing an exception; exempting an
 46 | informal hearing from certain provisions; authorizing
 47 | such hearing to be conducted by means of
 48 | communications technology; requiring the department to
 49 | dismiss the action to downgrade the person's
 50 | commercial driver license or temporary commercial

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51 instruction permit under certain circumstances;
 52 requiring the department to record the
 53 disqualification of a person from operating a
 54 commercial motor vehicle in the person's driving
 55 record upon entry of a final order to downgrade the
 56 person's commercial driver license or temporary
 57 commercial instruction permit; providing construction;
 58 requiring reinstatement of the person's commercial
 59 driver license or temporary commercial instruction
 60 permit under certain circumstances; limiting liability
 61 of the department; specifying that certain provisions
 62 are the exclusive procedure for downgrade of a
 63 commercial driver license or temporary commercial
 64 instruction permit; providing construction;
 65 authorizing issuance of a Class E driver license to a
 66 person who is prohibited from operating a commercial
 67 motor vehicle under certain circumstances; amending
 68 ss. 322.34 and 322.61, F.S.; conforming cross-
 69 references; providing an effective date.

70

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

72

73 Section 1. Subsection (1), paragraph (d) of subsection
 74 (2), and subsection (9) of section 316.302, Florida Statutes,
 75 are amended to read:

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76 316.302 Commercial motor vehicles; safety regulations;
77 transporters and shippers of hazardous materials; enforcement.—

78 (1) (a) All owners and drivers of commercial motor vehicles
79 that are operated on the public highways of this state while
80 engaged in interstate commerce are subject to the rules and
81 regulations contained in 49 C.F.R. parts 382, 383, 384, 385,
82 386, and 390-397.

83 (b) Except as otherwise provided in this section, all
84 owners and drivers of commercial motor vehicles that are engaged
85 in intrastate commerce are subject to the rules and regulations
86 contained in 49 C.F.R. parts 382, 383, 384, 385, 386, and 390-
87 397, as such rules and regulations existed on December 31, 2023
88 ~~2020~~.

89 (c) The emergency exceptions provided by 49 C.F.R. s.
90 392.82 also apply to communications by utility drivers and
91 utility contractor drivers during a Level 1 activation of the
92 State Emergency Operations Center, as provided in the Florida
93 Comprehensive Emergency Management plan, or during a state of
94 emergency declared by executive order or proclamation of the
95 Governor.

96 (d) Except as provided in s. 316.228 for rear overhang
97 lighting and flagging requirements for intrastate operations,
98 the requirements of this section supersede all other safety
99 requirements of this chapter for commercial motor vehicles.

100 ~~(e) A person who operates a commercial motor vehicle~~

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101 ~~solely in intrastate commerce which does not transport hazardous~~
 102 ~~materials in amounts that require placarding pursuant to 49~~
 103 ~~C.F.R. part 172 need not comply with the requirements of~~
 104 ~~electronic logging devices and hours of service supporting~~
 105 ~~documents as provided in 49 C.F.R. parts 385, 386, 390, and 395~~
 106 ~~until December 31, 2019.~~

107 (2)

108 (d) A person who operates a commercial motor vehicle
 109 solely in intrastate commerce not transporting any hazardous
 110 material in amounts that require placarding pursuant to 49
 111 C.F.R. part 172 within a 150 air-mile radius of the location
 112 where the vehicle is based need not comply with 49 C.F.R. ss.
 113 395.8 and 395.11 ~~s. 395.8~~ if the requirements of 49 C.F.R. s.
 114 395.1(e)(1)(iii) and (iv) ~~s. 395.1(e)(1)(ii), (iii)(A) and (C),~~
 115 ~~and (v)~~ are met.

116 (9) For the purpose of enforcing this section, any law
 117 enforcement officer of the Department of Highway Safety and
 118 Motor Vehicles or duly appointed agent who holds a current
 119 safety inspector certification from the Commercial Vehicle
 120 Safety Alliance may require the driver of any commercial vehicle
 121 operated on the highways of this state to stop and submit to an
 122 inspection of the vehicle or the driver's records. If the
 123 vehicle or driver is found to be operating in an unsafe
 124 condition, or if any required part or equipment is not present
 125 or is not in proper repair or adjustment, and the continued

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126 operation would present an unduly hazardous operating condition,
 127 the officer or agent may require the vehicle or the driver to be
 128 removed from service pursuant to the North American Standard
 129 Out-of-Service Criteria, until corrected. However, if continuous
 130 operation would not present an unduly hazardous operating
 131 condition, the officer or agent may give written notice
 132 requiring correction of the condition within 15 days.

133 (a) Any member of the Florida Highway Patrol or any law
 134 enforcement officer employed by a sheriff's office or municipal
 135 police department authorized to enforce the traffic laws of this
 136 state pursuant to s. 316.640 who has reason to believe that a
 137 vehicle or driver is operating in an unsafe condition may, as
 138 provided in subsection (11), enforce ~~the provisions of~~ this
 139 section.

140 (b) Any person who fails to comply with an officer's
 141 request to submit to an inspection under this subsection commits
 142 a violation of s. 843.02 if the person resists the officer
 143 without violence or a violation of s. 843.01 if the person
 144 resists the officer with violence.

145 Section 2. Subsections (16) through (48) of section
 146 322.01, Florida Statutes, are renumbered as subsections (17)
 147 through (49), respectively, subsection (5) and present
 148 subsections (37) and (41) are amended, and a new subsection (16)
 149 is added to that section, to read:

150 322.01 Definitions.—As used in this chapter:

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151 (5) "Cancellation" means the act of declaring a driver
 152 license void and terminated but does not include a downgrade.

153 (16) "Downgrade" has the same meaning as the term "CDL
 154 downgrade" as defined in 49 C.F.R. s. 383.5(4).

155 ~~(38)-(37)~~ "Revocation" means the termination of a
 156 licensee's privilege to drive. The term does not include a
 157 downgrade.

158 ~~(42)-(41)~~ "Suspension" means the temporary withdrawal of a
 159 licensee's privilege to drive a motor vehicle. The term does not
 160 include a downgrade.

161 Section 3. Subsection (2) of section 322.02, Florida
 162 Statutes, is amended to read:

163 322.02 Legislative intent; administration.—

164 (2) The Department of Highway Safety and Motor Vehicles is
 165 charged with the administration and function of enforcement of
 166 the provisions of this chapter and the administration and
 167 enforcement of 49 C.F.R. parts 382-386 and 390-397.

168 Section 4. Subsections (7) through (12) of section 322.05,
 169 Florida Statutes, are renumbered as subsections (8) through
 170 (13), respectively, and a new subsection (7) is added to that
 171 section to read:

172 322.05 Persons not to be licensed.—The department may not
 173 issue a license:

174 (7) To any person, as a commercial motor vehicle operator,
 175 who is ineligible to operate a commercial motor vehicle pursuant

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176 | to 49 C.F.R. part 383.

177 | Section 5. Subsection (3) of section 322.07, Florida
178 | Statutes, is amended to read:

179 | 322.07 Instruction permits and temporary licenses.—

180 | (3) Any person who, except for his or her lack of
181 | instruction in operating a commercial motor vehicle, would
182 | otherwise be qualified to obtain a commercial driver license
183 | under this chapter, may apply for a temporary commercial
184 | instruction permit. The department shall issue such a permit
185 | entitling the applicant, while having the permit in his or her
186 | immediate possession, to drive a commercial motor vehicle on the
187 | highways, if:

188 | (a) The applicant possesses a valid Florida driver
189 | license; ~~and~~

190 | (b) The applicant, while operating a commercial motor
191 | vehicle, is accompanied by a licensed driver who is 21 years of
192 | age or older, who is licensed to operate the class of vehicle
193 | being operated, and who is occupying the closest seat to the
194 | right of the driver; and

195 | (c) The department has not been notified that, under 49
196 | C.F.R. s. 382.501(a), the applicant is prohibited from operating
197 | a commercial motor vehicle.

198 | Section 6. Subsection (8) and paragraph (a) of subsection
199 | (9) of section 322.21, Florida Statutes, are amended to read:

200 | 322.21 License fees; procedure for handling and collecting

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201 fees.—

202 (8) A person who applies for reinstatement following the
 203 suspension or revocation of the person's driver license must pay
 204 a service fee of \$45 following a suspension, and \$75 following a
 205 revocation, which is in addition to the fee for a license. A
 206 person who applies for reinstatement of a commercial driver
 207 license following the disqualification or downgrade of the
 208 person's privilege to operate a commercial motor vehicle must
 209 ~~shall~~ pay a service fee of \$75, which is in addition to the fee
 210 for a license. The department shall collect all of these fees at
 211 the time of reinstatement. The department shall issue proper
 212 receipts for such fees and shall promptly transmit all funds
 213 received by it as follows:

214 (a) Of the \$45 fee received from a licensee for
 215 reinstatement following a suspension:

216 1. If the reinstatement is processed by the department,
 217 the department shall deposit \$15 in the General Revenue Fund and
 218 \$30 in the Highway Safety Operating Trust Fund.

219 2. If the reinstatement is processed by the tax collector,
 220 \$15, less the general revenue service charge set forth in s.
 221 215.20(1), shall be retained by the tax collector, \$15 shall be
 222 deposited into the Highway Safety Operating Trust Fund, and \$15
 223 shall be deposited into the General Revenue Fund.

224 (b) Of the \$75 fee received from a licensee for
 225 reinstatement following a revocation, ~~or~~ or disqualification, or

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226 | downgrade:

227 | 1. If the reinstatement is processed by the department,
228 | the department shall deposit \$35 in the General Revenue Fund and
229 | \$40 in the Highway Safety Operating Trust Fund.

230 | 2. If the reinstatement is processed by the tax collector,
231 | \$20, less the general revenue service charge set forth in s.
232 | 215.20(1), shall be retained by the tax collector, \$20 shall be
233 | deposited into the Highway Safety Operating Trust Fund, and \$35
234 | shall be deposited into the General Revenue Fund.

235 |

236 | If the revocation or suspension of the driver license was for a
237 | violation of s. 316.193, or for refusal to submit to a lawful
238 | breath, blood, or urine test, an additional fee of \$130 must be
239 | charged. However, only one \$130 fee may be collected from one
240 | person convicted of violations arising out of the same incident.

241 | The department shall collect the \$130 fee and deposit the fee
242 | into the Highway Safety Operating Trust Fund at the time of
243 | reinstatement of the person's driver license, but the fee may
244 | not be collected if the suspension or revocation is overturned.

245 | If the revocation or suspension of the driver license was for a
246 | conviction for a violation of s. 817.234(8) or (9) or s.

247 | 817.505, an additional fee of \$180 is imposed for each offense.

248 | The department shall collect and deposit the additional fee into
249 | the Highway Safety Operating Trust Fund at the time of
250 | reinstatement of the person's driver license.

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251 (9) An applicant:

252 (a) Requesting a review authorized in s. 322.222, s.
 253 322.2615, s. 322.2616, s. 322.27, s. 322.591, or s. 322.64 must
 254 pay a filing fee of \$25 to be deposited into the Highway Safety
 255 Operating Trust Fund.

256 Section 7. Section 322.31, Florida Statutes, is amended to
 257 read:

258 322.31 Right of review.—The final orders and rulings of
 259 the department wherein any person's license is denied, canceled,
 260 suspended, or revoked or wherein any person's commercial driver
 261 license or temporary commercial instruction permit is downgraded
 262 ~~person is denied a license, or where such license has been~~
 263 ~~canceled, suspended, or revoked,~~ shall be reviewable in the
 264 manner and within the time provided by the Florida Rules of
 265 Appellate Procedure only by a writ of certiorari issued by the
 266 circuit court in the county wherein such person shall reside, in
 267 the manner prescribed by the Florida Rules of Appellate
 268 Procedure, any provision in chapter 120 to the contrary
 269 notwithstanding.

270 Section 8. Section 322.591, Florida Statutes, is created
 271 to read:

272 322.591 Commercial driver license and temporary commercial
 273 instruction permit; Commercial Driver's License Drug and Alcohol
 274 Clearinghouse; prohibition on issuance of commercial driver
 275 licenses; downgrades.—Beginning November 18, 2024:

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276 (1) When a person applies for or seeks to renew, transfer,
 277 or make any other change to a commercial driver license or
 278 temporary commercial instruction permit, the department must
 279 obtain the person's driving record from the Commercial Driver's
 280 License Drug and Alcohol Clearinghouse established pursuant to
 281 49 C.F.R. part 382. The department may not issue, renew, or
 282 transfer, or revise the types of authorized vehicles that may be
 283 operated or the endorsements applicable to, a commercial driver
 284 license or temporary commercial instruction permit for any
 285 person for whom the department receives notification that,
 286 pursuant to 49 C.F.R. s. 382.501(a), the person is prohibited
 287 from operating a commercial motor vehicle.

288 (2) The department shall downgrade the commercial driver
 289 license or temporary commercial instruction permit of a person
 290 for whom the department receives notification that, pursuant to
 291 49 C.F.R. s. 382.501(a), the person is prohibited from operating
 292 a commercial motor vehicle. Any such downgrade must be completed
 293 and recorded by the department in the Commercial Driver's
 294 License Information System within 60 days after the department's
 295 receipt of such notification.

296 (3)(a) Upon receipt of notification that, pursuant to 49
 297 C.F.R. s. 382.501(a), a person is prohibited from operating a
 298 commercial motor vehicle, the department shall immediately
 299 notify the person who is the subject of such notification that
 300 he or she is prohibited from operating a commercial motor

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301 vehicle and, upon his or her request, must afford him or her an
 302 opportunity for an informal hearing pursuant to this section.
 303 The department's notice must be provided to the person in the
 304 same manner as, and providing notice has the same effect as,
 305 notices provided pursuant to s. 322.251(1) and (2).

306 (b) An informal hearing under paragraph (a) must be
 307 requested no later than 20 days after the person receives the
 308 notice of the downgrade. If a request for a hearing is not
 309 received within 20 days after receipt of such notice, the
 310 department must enter a final order directing the downgrade of
 311 the person's commercial driver license or temporary commercial
 312 instruction permit unless the department receives notification
 313 that, pursuant to 49 C.F.R. s. 382.503(a), the person is no
 314 longer prohibited from operating a commercial motor vehicle.

315 (c) A hearing requested under paragraph (b) must be
 316 scheduled and held no later than 30 days after receipt by the
 317 department of a request for the hearing. The submission of a
 318 request for hearing under paragraph (b) tolls the deadline to
 319 file a petition for writ of certiorari pursuant to s. 322.31
 320 until after the department enters a final order after a hearing
 321 under paragraph (b).

322 (d) The informal hearing authorized by this subsection is
 323 exempt from chapter 120. Such hearing must be conducted before a
 324 hearing officer designated by the department. The hearing
 325 officer may conduct such hearing by means of communications

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326 technology.

327 (e) The notification received by the department pursuant
 328 to 49 C.F.R. s. 382.501(a) must be in the record for
 329 consideration by the hearing officer and in any proceeding under
 330 s. 322.31 and is considered self-authenticating. The basis for
 331 the notification received by the department pursuant to 49
 332 C.F.R. s. 382.501(a) and the information in the Commercial
 333 Driver's License Drug and Alcohol Clearinghouse which resulted
 334 in such notification are not subject to challenge in the hearing
 335 or in any proceeding brought under s. 322.31.

336 (f) If, before the entry of a final order arising from a
 337 notification received by the department pursuant to 49 C.F.R. s.
 338 382.501(a), the department receives notification that, pursuant
 339 to 49 C.F.R. s. 382.503(a), the person is no longer prohibited
 340 from operating a commercial motor vehicle, the department must
 341 dismiss the action to downgrade the person's commercial driver
 342 license or temporary commercial instruction permit.

343 (g) Upon the entry of a final order that results in the
 344 downgrade of a person's commercial driver license or temporary
 345 commercial instruction permit, the department shall record
 346 immediately in the person's driving record that the person is
 347 disqualified from operating a commercial motor vehicle. The
 348 downgrade of a commercial driver license or temporary commercial
 349 instruction permit pursuant to a final order entered pursuant to
 350 this section and, upon the entry of a final order, the recording

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351 in the person's record that the person subject to such final
352 order is disqualified from operating a commercial motor vehicle,
353 are not stayed during the pendency of any proceeding pursuant to
354 s. 322.31.

355 (h) If, after the department enters a final order that
356 results in the downgrade of a person's commercial driver license
357 or temporary commercial instruction permit and records in the
358 person's driving record that the person is disqualified from
359 operating a commercial motor vehicle, the department receives:

360 1. Notification that, pursuant to 49 C.F.R. s. 382.503(a),
361 the person is no longer prohibited from operating a commercial
362 motor vehicle, the department must reinstate the person's
363 commercial driver license or temporary commercial instruction
364 permit upon application by such person.

365 2. Notification from the Federal Motor Carrier Safety
366 Administration pursuant to 49 C.F.R. s. 383.73(q)(3) that the
367 person was erroneously identified as being prohibited from
368 operating a commercial motor vehicle, the department must notify
369 the person; reinstate, without payment of the reinstatement fee
370 required pursuant to s. 322.21, the person's commercial driver
371 license or commercial instruction permit as expeditiously as
372 possible; and remove any reference to the person's erroneous
373 prohibited status from the Commercial Driver's License
374 Information System and the person's record.

375 (i) The department is not liable for any commercial driver

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376 license or temporary commercial instruction permit downgrade
 377 resulting from the discharge of its duties.

378 (j) This section is the exclusive procedure for the
 379 downgrade of a commercial driver license or temporary commercial
 380 instruction permit following notification received by the
 381 department that, pursuant to 49 C.F.R. s. 382.501(a), a person
 382 is prohibited from operating a commercial motor vehicle.

383 (k) The downgrade of a person's commercial driver license
 384 or temporary commercial instruction permit pursuant to this
 385 section does not preclude the suspension of the driving
 386 privilege for that person pursuant to s. 322.2615 or the
 387 disqualification of that person from operating a commercial
 388 motor vehicle pursuant to s. 322.64. The driving privilege of a
 389 person whose commercial driver license or temporary commercial
 390 instruction permit has been downgraded pursuant to this section
 391 also may be suspended for a violation of s. 316.193.

392 (4) A person for whom the department receives notification
 393 that, pursuant to 49 C.F.R. s. 382.501(a), the person is
 394 prohibited from operating a commercial motor vehicle may, if
 395 otherwise qualified, be issued a Class E driver license pursuant
 396 to s. 322.251(4), valid for the length of his or her unexpired
 397 license period, at no cost.

398 Section 9. Subsection (2) of section 322.34, Florida
 399 Statutes, is amended to read:

400 322.34 Driving while license suspended, revoked, canceled,

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401 or disqualified.—

402 (2) Any person whose driver license or driving privilege
 403 has been canceled, suspended, or revoked as provided by law, or
 404 who does not have a driver license or driving privilege but is
 405 under suspension or revocation equivalent status as defined in
 406 s. 322.01(43) ~~s. 322.01(42)~~, except persons defined in s.
 407 322.264, who, knowing of such cancellation, suspension,
 408 revocation, or suspension or revocation equivalent status,
 409 drives any motor vehicle upon the highways of this state while
 410 such license or privilege is canceled, suspended, or revoked, or
 411 while under suspension or revocation equivalent status, commits:

412 (a) A misdemeanor of the second degree, punishable as
 413 provided in s. 775.082 or s. 775.083.

414 (b)1. A misdemeanor of the first degree, punishable as
 415 provided in s. 775.082 or s. 775.083, upon a second or
 416 subsequent conviction, except as provided in paragraph (c).

417 2. A person convicted of a third or subsequent conviction,
 418 except as provided in paragraph (c), must serve a minimum of 10
 419 days in jail.

420 (c) A felony of the third degree, punishable as provided
 421 in s. 775.082, s. 775.083, or s. 775.084, upon a third or
 422 subsequent conviction if the current violation of this section
 423 or the most recent prior violation of the section is related to
 424 driving while license canceled, suspended, revoked, or
 425 suspension or revocation equivalent status resulting from a

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426 violation of:

- 427 1. Driving under the influence;
- 428 2. Refusal to submit to a urine, breath-alcohol, or blood
- 429 alcohol test;
- 430 3. A traffic offense causing death or serious bodily
- 431 injury; or
- 432 4. Fleeing or eluding.

433

434 The element of knowledge is satisfied if the person has been
 435 previously cited as provided in subsection (1); or the person
 436 admits to knowledge of the cancellation, suspension, or
 437 revocation, or suspension or revocation equivalent status; or
 438 the person received notice as provided in subsection (4). There
 439 shall be a rebuttable presumption that the knowledge requirement
 440 is satisfied if a judgment or order as provided in subsection
 441 (4) appears in the department's records for any case except for
 442 one involving a suspension by the department for failure to pay
 443 a traffic fine or for a financial responsibility violation.

444 Section 10. Subsection (4) of section 322.61, Florida
 445 Statutes, is amended to read:

446 322.61 Disqualification from operating a commercial motor
 447 vehicle.—

448 (4) Any person who is transporting hazardous materials as
 449 defined in s. 322.01(25) ~~s. 322.01(24)~~ shall, upon conviction of
 450 an offense specified in subsection (3), be disqualified from

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451 | operating a commercial motor vehicle for a period of 3 years.
452 | The penalty provided in this subsection shall be in addition to
453 | any other applicable penalty.

454 | Section 11. This act shall take effect July 1, 2024.