

By Senator DiCeglie

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1 A bill to be entitled
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; authorizing agents to remove
7 vehicles or drivers from service and to give certain
8 written notice under certain circumstances; providing
9 penalties; amending s. 322.01, F.S.; revising
10 definitions; defining the term "downgrade"; amending
11 s. 322.02, F.S.; charging the Department of Highway
12 Safety and Motor Vehicles with the administration and
13 enforcement of certain federal regulations; amending
14 s. 322.05, F.S.; prohibiting the department from
15 issuing a commercial motor vehicle license to a person
16 who is ineligible under certain federal regulations;
17 amending s. 322.07, F.S.; revising circumstances under
18 which the department is required to issue a temporary
19 commercial instruction permit; amending s. 322.21,
20 F.S.; applying a reinstatement service fee to a person
21 whose privilege to operate a commercial vehicle has
22 been downgraded; applying a filing fee to a person
23 applying for or seeking to renew, transfer, or make
24 any other change to a commercial driver license or
25 temporary commercial instruction permit; creating s.
26 322.591, F.S.; requiring the department to obtain a
27 person's driving record from the Commercial Driver's
28 License Drug and Alcohol Clearinghouse; prohibiting
29 the department from performing certain actions for a

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30 person who is prohibited from operating a commercial
31 motor vehicle under certain federal regulations;
32 requiring the department to downgrade a commercial
33 driver license or temporary commercial instruction
34 permit of a person who is prohibited from operating a
35 commercial motor vehicle under such regulations and to
36 record such downgrade in the Commercial Driver's
37 License Information System; requiring the department
38 to provide to such person certain notification and,
39 upon request, an opportunity for an informal hearing;
40 providing hearing requirements; requiring the
41 department to enter a final order directing the
42 downgrade of the person's commercial driver license or
43 temporary commercial instruction permit under certain
44 circumstances; providing an exception; providing that
45 a request for a hearing tolls certain deadlines;
46 exempting an informal hearing from certain provisions;
47 authorizing 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
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

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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 (2),
 74 and subsection (9) of section 316.302, Florida Statutes, are
 75 amended to read:

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 382-386 ~~382, 383, 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 382-386 ~~382, 383, 385, 386,~~ and
 87 390-397, as such rules and regulations existed on December 31,

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88 2023 ~~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 solely~~
101 ~~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 solely
109 in intrastate commerce not transporting any hazardous material
110 in amounts that require placarding pursuant to 49 C.F.R. part
111 172 within a 150 air-mile radius of the location where the
112 vehicle is based need not comply with 49 C.F.R. ss. 395.8 and
113 395.11 ~~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

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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
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 or agent with violence.

145 Section 2. Present subsections (16) through (48) of section

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

150 322.01 Definitions.—As used in this chapter:

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 licensee's
156 privilege to drive. The term does not include a downgrade.

157 (42)~~(41)~~ "Suspension" means the temporary withdrawal of a
158 licensee's privilege to drive a motor vehicle. The term does not
159 include a downgrade.

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

162 322.02 Legislative intent; administration.—

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

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

171 322.05 Persons not to be licensed.—The department may not
172 issue a license:

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

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175 to 49 C.F.R. part 383.

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

178 322.07 Instruction permits and temporary licenses.—

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

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

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

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

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

199 322.21 License fees; procedure for handling and collecting
200 fees.—

201 (8) A person who applies for reinstatement following the
202 suspension or revocation of the person's driver license must pay
203 a service fee of \$45 following a suspension, and \$75 following a

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

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

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

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

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

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

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

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233 shall be deposited into the General Revenue Fund.

234

235 If the revocation or suspension of the driver license was for a
236 violation of s. 316.193, or for refusal to submit to a lawful
237 breath, blood, or urine test, an additional fee of \$130 must be
238 charged. However, only one \$130 fee may be collected from one
239 person convicted of violations arising out of the same incident.
240 The department shall collect the \$130 fee and deposit the fee
241 into the Highway Safety Operating Trust Fund at the time of
242 reinstatement of the person's driver license, but the fee may
243 not be collected if the suspension or revocation is overturned.
244 If the revocation or suspension of the driver license was for a
245 conviction for a violation of s. 817.234(8) or (9) or s.
246 817.505, an additional fee of \$180 is imposed for each offense.
247 The department shall collect and deposit the additional fee into
248 the Highway Safety Operating Trust Fund at the time of
249 reinstatement of the person's driver license.

250 (9) An applicant:

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

255 Section 7. Section 322.591, Florida Statutes, is created to
256 read:

257 322.591 Commercial driver license and temporary commercial
258 instruction permit; Commercial Driver's License Drug and Alcohol
259 Clearinghouse; prohibition on issuance of commercial driver
260 licenses; downgrades.—Beginning November 18, 2024:

261 (1) When a person applies for or seeks to renew, transfer,

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262 or make any other change to a commercial driver license or
263 temporary commercial instruction permit, the department must
264 obtain the person's driving record from the Commercial Driver's
265 License Drug and Alcohol Clearinghouse established pursuant to
266 49 C.F.R. part 382. The department may not issue, renew, or
267 transfer, or revise the types of authorized vehicles that may be
268 operated or the endorsements applicable to, a commercial driver
269 license or temporary commercial instruction permit for any
270 person for whom the department receives notification that,
271 pursuant to 49 C.F.R. s. 382.501(a), the person is prohibited
272 from operating a commercial motor vehicle.

273 (2) The department shall downgrade the commercial driver
274 license or temporary commercial instruction permit of a person
275 for whom the department receives notification that, pursuant to
276 49 C.F.R. s. 382.501(a), the person is prohibited from operating
277 a commercial motor vehicle. Any such downgrade must be completed
278 and recorded by the department in the Commercial Driver's
279 License Information System within 60 days after the department's
280 receipt of such notification.

281 (3) (a) Upon receipt of notification that, pursuant to 49
282 C.F.R. s. 382.501(a), a person is prohibited from operating a
283 commercial motor vehicle, the department shall immediately
284 notify the person who is the subject of such notification that
285 he or she is prohibited from operating a commercial motor
286 vehicle and, upon his or her request, must afford him or her an
287 opportunity for an informal hearing pursuant to this section.
288 The department's notice must be provided to the person in the
289 same manner as, and providing notice has the same effect as,
290 notices provided pursuant to s. 322.251(1) and (2).

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291 (b) An informal hearing under paragraph (a) must be
292 requested no later than 20 days after the person receives the
293 notice of the downgrade. If a request for a hearing is not
294 received within 20 days after receipt of such notice, the
295 department must enter a final order directing the downgrade of
296 the person's commercial driver license or temporary commercial
297 instruction permit unless the department receives notification
298 that, pursuant to 49 C.F.R. s. 382.503(a), the person is no
299 longer prohibited from operating a commercial motor vehicle.

300 (c) A hearing requested under paragraph (b) must be
301 scheduled and held no later than 30 days after receipt by the
302 department of a request for the hearing. The submission of a
303 request for hearing under paragraph (b) tolls the deadline to
304 file a petition for writ of certiorari pursuant to s. 322.31
305 until after the department enters a final order after a hearing
306 under paragraph (b).

307 (d) The informal hearing authorized by this subsection is
308 exempt from chapter 120. Such hearing must be conducted before a
309 hearing officer designated by the department. The hearing
310 officer may conduct such hearing by means of communications
311 technology.

312 (e) The notification received by the department pursuant to
313 49 C.F.R. s. 382.501(a) must be in the record for consideration
314 by the hearing officer and in any proceeding under s. 322.31 and
315 is considered self-authenticating. The basis for the
316 notification received by the department pursuant to 49 C.F.R. s.
317 382.501(a) and the information in the Commercial Driver's
318 License Drug and Alcohol Clearinghouse which resulted in such
319 notification are not subject to challenge in the hearing or in

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320 any proceeding brought under s. 322.31.

321 (f) If, before the entry of a final order arising from a
322 notification received by the department pursuant to 49 C.F.R. s.
323 382.501(a), the department receives notification that, pursuant
324 to 49 C.F.R. s. 382.503(a), the person is no longer prohibited
325 from operating a commercial motor vehicle, the department must
326 dismiss the action to downgrade the person's commercial driver
327 license or temporary commercial instruction permit.

328 (g) Upon the entry of a final order that results in the
329 downgrade of a person's commercial driver license or temporary
330 commercial instruction permit, the department shall record
331 immediately in the person's driving record that the person is
332 disqualified from operating a commercial motor vehicle. The
333 downgrade of a commercial driver license or temporary commercial
334 instruction permit pursuant to a final order entered pursuant to
335 this section and, upon the entry of a final order, the recording
336 in the person's record that the person subject to such final
337 order is disqualified from operating a commercial motor vehicle,
338 are not stayed during the pendency of any proceeding pursuant to
339 s. 322.31.

340 (h) If, after the department enters a final order that
341 results in the downgrade of a person's commercial driver license
342 or temporary commercial instruction permit and records in the
343 person's driving record that the person is disqualified from
344 operating a commercial motor vehicle, the department receives
345 notification that, pursuant to 49 C.F.R. s. 382.503(a), the
346 person is no longer prohibited from operating a commercial motor
347 vehicle, the department must reinstate the person's commercial
348 driver license or temporary commercial instruction permit upon

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349 application by such person.

350 (i) The department is not liable for any commercial driver
351 license or temporary commercial instruction permit downgrade
352 resulting from the discharge of its duties.

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

358 (k) The downgrade of a person's commercial driver license
359 or temporary commercial instruction permit pursuant to this
360 section does not preclude the suspension of the driving
361 privilege for that person pursuant to s. 322.2615 or the
362 disqualification of that person from operating a commercial
363 motor vehicle pursuant to s. 322.64. The driving privilege of a
364 person whose commercial driver license or temporary commercial
365 instruction permit has been downgraded pursuant to this section
366 also may be suspended for a violation of s. 316.193.

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

373 Section 8. Subsection (2) of section 322.34, Florida
374 Statutes, is amended to read:

375 322.34 Driving while license suspended, revoked, canceled,
376 or disqualified.—

377 (2) Any person whose driver license or driving privilege

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378 has been canceled, suspended, or revoked as provided by law, or
379 who does not have a driver license or driving privilege but is
380 under suspension or revocation equivalent status as defined in
381 s. 322.01(43) ~~s. 322.01(42)~~, except persons defined in s.
382 322.264, who, knowing of such cancellation, suspension,
383 revocation, or suspension or revocation equivalent status,
384 drives any motor vehicle upon the highways of this state while
385 such license or privilege is canceled, suspended, or revoked, or
386 while under suspension or revocation equivalent status, commits:

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

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

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

395 (c) A felony of the third degree, punishable as provided in
396 s. 775.082, s. 775.083, or s. 775.084, upon a third or
397 subsequent conviction if the current violation of this section
398 or the most recent prior violation of the section is related to
399 driving while license canceled, suspended, revoked, or
400 suspension or revocation equivalent status resulting from a
401 violation of:

402 1. Driving under the influence;

403 2. Refusal to submit to a urine, breath-alcohol, or blood
404 alcohol test;

405 3. A traffic offense causing death or serious bodily
406 injury; or

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407 4. Fleeing or eluding.

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409 The element of knowledge is satisfied if the person has been
410 previously cited as provided in subsection (1); or the person
411 admits to knowledge of the cancellation, suspension, or
412 revocation, or suspension or revocation equivalent status; or
413 the person received notice as provided in subsection (4). There
414 shall be a rebuttable presumption that the knowledge requirement
415 is satisfied if a judgment or order as provided in subsection
416 (4) appears in the department's records for any case except for
417 one involving a suspension by the department for failure to pay
418 a traffic fine or for a financial responsibility violation.

419 Section 9. Subsection (4) of section 322.61, Florida
420 Statutes, is amended to read:

421 322.61 Disqualification from operating a commercial motor
422 vehicle.—

423 (4) Any person who is transporting hazardous materials as
424 defined in s. 322.01(25) ~~s. 322.01(24)~~ shall, upon conviction of
425 an offense specified in subsection (3), be disqualified from
426 operating a commercial motor vehicle for a period of 3 years.
427 The penalty provided in this subsection shall be in addition to
428 any other applicable penalty.

429 Section 10. This act shall take effect July 1, 2024.