

By the Committee on Transportation; and 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; amending s.
26 322.31, F.S.; requiring that the final orders and
27 rulings of the department regarding commercial driver
28 licenses and commercial instruction permits be
29 reviewable; creating s. 322.591, F.S.; requiring the

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

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59 record upon entry of a final order to downgrade the
60 person's commercial driver license or temporary
61 commercial instruction permit; providing construction;
62 requiring reinstatement of the person's commercial
63 driver license or temporary commercial instruction
64 permit under certain circumstances; limiting liability
65 of the department; specifying that certain provisions
66 are the exclusive procedure for downgrade of a
67 commercial driver license or temporary commercial
68 instruction permit; providing construction;
69 authorizing issuance of a Class E driver license to a
70 person who is prohibited from operating a commercial
71 motor vehicle under certain circumstances; amending
72 ss. 322.34 and 322.61, F.S.; conforming cross-
73 references; providing an effective date.
74

75 Be It Enacted by the Legislature of the State of Florida:
76

77 Section 1. Subsection (1), paragraph (d) of subsection (2),
78 and subsection (9) of section 316.302, Florida Statutes, are
79 amended to read:

80 316.302 Commercial motor vehicles; safety regulations;
81 transporters and shippers of hazardous materials; enforcement.-

82 (1) (a) All owners and drivers of commercial motor vehicles
83 that are operated on the public highways of this state while
84 engaged in interstate commerce are subject to the rules and
85 regulations contained in 49 C.F.R. parts 382-386 ~~382, 383, 385,~~
86 ~~386,~~ and 390-397.

87 (b) Except as otherwise provided in this section, all

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88 owners and drivers of commercial motor vehicles that are engaged
89 in intrastate commerce are subject to the rules and regulations
90 contained in 49 C.F.R. parts 382-386 ~~382, 383, 385, 386,~~ and
91 390-397, as such rules and regulations existed on December 31,
92 2023 ~~2020~~.

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

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

104 ~~(e) A person who operates a commercial motor vehicle solely
105 in intrastate commerce which does not transport hazardous
106 materials in amounts that require placarding pursuant to 49
107 C.F.R. part 172 need not comply with the requirements of
108 electronic logging devices and hours of service supporting
109 documents as provided in 49 C.F.R. parts 385, 386, 390, and 395
110 until December 31, 2019.~~

111 (2)

112 (d) A person who operates a commercial motor vehicle solely
113 in intrastate commerce not transporting any hazardous material
114 in amounts that require placarding pursuant to 49 C.F.R. part
115 172 within a 150 air-mile radius of the location where the
116 vehicle is based need not comply with 49 C.F.R. ss. 395.8 and

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117 395.11 ~~s. 395.8~~ if the requirements of 49 C.F.R. s.
118 395.1(e)(1)(iii) and (iv) ~~s. 395.1(e)(1)(ii), (iii)(A) and (C),~~
119 ~~and (v)~~ are met.

120 (9) For the purpose of enforcing this section, any law
121 enforcement officer of the Department of Highway Safety and
122 Motor Vehicles or duly appointed agent who holds a current
123 safety inspector certification from the Commercial Vehicle
124 Safety Alliance may require the driver of any commercial vehicle
125 operated on the highways of this state to stop and submit to an
126 inspection of the vehicle or the driver's records. If the
127 vehicle or driver is found to be operating in an unsafe
128 condition, or if any required part or equipment is not present
129 or is not in proper repair or adjustment, and the continued
130 operation would present an unduly hazardous operating condition,
131 the officer or agent may require the vehicle or the driver to be
132 removed from service pursuant to the North American Standard
133 Out-of-Service Criteria, until corrected. However, if continuous
134 operation would not present an unduly hazardous operating
135 condition, the officer or agent may give written notice
136 requiring correction of the condition within 15 days.

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

144 (b) Any person who fails to comply with an officer's
145 request to submit to an inspection under this subsection commits

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146 a violation of s. 843.02 if the person resists the officer
147 without violence or a violation of s. 843.01 if the person
148 resists the officer or agent with violence.

149 Section 2. Present subsections (16) through (48) of section
150 322.01, Florida Statutes, are redesignated as subsections (17)
151 through (49), respectively, a new subsection (16) is added to
152 that section, and subsection (5) and present subsections (37)
153 and (41) of that section are amended, to read:

154 322.01 Definitions.—As used in this chapter:

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

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

159 (38)-(37) "Revocation" means the termination of a licensee's
160 privilege to drive. The term does not include a downgrade.

161 (42)-(41) "Suspension" means the temporary withdrawal of a
162 licensee's privilege to drive a motor vehicle. The term does not
163 include a downgrade.

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

166 322.02 Legislative intent; administration.—

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

171 Section 4. Present subsections (7) through (12) of section
172 322.05, Florida Statutes, are redesignated as subsections (8)
173 through (13), respectively, and a new subsection (7) is added to
174 that section, to read:

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175 322.05 Persons not to be licensed.—The department may not
176 issue a license:

177 (7) To any person, as a commercial motor vehicle operator,
178 who is ineligible to operate a commercial motor vehicle pursuant
179 to 49 C.F.R. part 383.

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

182 322.07 Instruction permits and temporary licenses.—

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

191 (a) The applicant possesses a valid Florida driver license;
192 ~~and~~

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

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

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

203 322.21 License fees; procedure for handling and collecting

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204 fees.—

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

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

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

222 2. If the reinstatement is processed by the tax collector,
223 \$15, less the general revenue service charge set forth in s.
224 215.20(1), shall be retained by the tax collector, \$15 shall be
225 deposited into the Highway Safety Operating Trust Fund, and \$15
226 shall be deposited into the General Revenue Fund.

227 (b) Of the \$75 fee received from a licensee for
228 reinstatement following a revocation, ~~or~~ disqualification, or
229 downgrade:

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

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233 2. If the reinstatement is processed by the tax collector,
234 \$20, less the general revenue service charge set forth in s.
235 215.20(1), shall be retained by the tax collector, \$20 shall be
236 deposited into the Highway Safety Operating Trust Fund, and \$35
237 shall be deposited into the General Revenue Fund.

238

239 If the revocation or suspension of the driver license was for a
240 violation of s. 316.193, or for refusal to submit to a lawful
241 breath, blood, or urine test, an additional fee of \$130 must be
242 charged. However, only one \$130 fee may be collected from one
243 person convicted of violations arising out of the same incident.
244 The department shall collect the \$130 fee and deposit the fee
245 into the Highway Safety Operating Trust Fund at the time of
246 reinstatement of the person's driver license, but the fee may
247 not be collected if the suspension or revocation is overturned.
248 If the revocation or suspension of the driver license was for a
249 conviction for a violation of s. 817.234(8) or (9) or s.
250 817.505, an additional fee of \$180 is imposed for each offense.
251 The department shall collect and deposit the additional fee into
252 the Highway Safety Operating Trust Fund at the time of
253 reinstatement of the person's driver license.

254 (9) An applicant:

255 (a) Requesting a review authorized in s. 322.222, s.
256 322.2615, s. 322.2616, s. 322.27, s. 322.591, or s. 322.64 must
257 pay a filing fee of \$25 to be deposited into the Highway Safety
258 Operating Trust Fund.

259 Section 7. Section 322.31, Florida Statutes, is amended to
260 read:

261 322.31 Right of review.—The final orders and rulings of the

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262 department wherein any person is denied a license or has a
263 commercial driver license or commercial instruction permit
264 downgraded, or where such license has been canceled, suspended,
265 or revoked, must ~~shall~~ be reviewable in the manner and within
266 the time provided by the Florida Rules of Appellate Procedure
267 only by a writ of certiorari issued by the circuit court in the
268 county wherein such person shall reside, in the manner
269 prescribed by the Florida Rules of Appellate Procedure, any
270 provision in chapter 120 to the contrary notwithstanding.

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

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

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

289 (2) The department shall downgrade the commercial driver
290 license or temporary commercial instruction permit of a person

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

297 (3) (a) Upon receipt of notification that, pursuant to 49
298 C.F.R. s. 382.501(a), a person is prohibited from operating a
299 commercial motor vehicle, the department shall immediately
300 notify the person who is the subject of such notification that
301 he or she is prohibited from operating a commercial motor
302 vehicle and, upon his or her request, must afford him or her an
303 opportunity for an informal hearing pursuant to this section.
304 The department's notice must be provided to the person in the
305 same manner as, and providing notice has the same effect as,
306 notices provided pursuant to s. 322.251(1) and (2).

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

316 (c) A hearing requested under paragraph (b) must be
317 scheduled and held no later than 30 days after receipt by the
318 department of a request for the hearing. The submission of a
319 request for hearing under paragraph (b) tolls the deadline to

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320 file a petition for writ of certiorari pursuant to s. 322.31
321 until after the department enters a final order after a hearing
322 under paragraph (b).

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

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

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

344 (g) Upon the entry of a final order that results in the
345 downgrade of a person's commercial driver license or temporary
346 commercial instruction permit, the department shall record
347 immediately in the person's driving record that the person is
348 disqualified from operating a commercial motor vehicle. The

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349 downgrade of a commercial driver license or temporary commercial
350 instruction permit pursuant to a final order entered pursuant to
351 this section and, upon the entry of a final order, the recording
352 in the person's record that the person subject to such final
353 order is disqualified from operating a commercial motor vehicle
354 are not stayed during the pendency of any proceeding pursuant to
355 s. 322.31.

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

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

366 2. Notification from the Federal Motor Carrier Safety
367 Administration pursuant to 49 C.F.R. s. 383.73(q) (3) that the
368 person was erroneously identified as being prohibited from
369 operating a commercial motor vehicle, the department must notify
370 the person; reinstate, without payment of the reinstatement fee
371 required pursuant to s. 322.31, the person's commercial driver
372 license or commercial instruction permit as expeditiously as
373 possible; and remove any reference to the person's erroneous
374 prohibited status from the Commercial Driver's License
375 Information System and the person's record.

376 (i) The department is not liable for any commercial driver
377 license or temporary commercial instruction permit downgrade

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378 resulting from the discharge of its duties.

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

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

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

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

401 322.34 Driving while license suspended, revoked, canceled,
402 or disqualified.—

403 (2) Any person whose driver license or driving privilege
404 has been canceled, suspended, or revoked as provided by law, or
405 who does not have a driver license or driving privilege but is
406 under suspension or revocation equivalent status as defined in

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407 s. 322.01(43) ~~s. 322.01(42)~~, except persons defined in s.
408 322.264, who, knowing of such cancellation, suspension,
409 revocation, or suspension or revocation equivalent status,
410 drives any motor vehicle upon the highways of this state while
411 such license or privilege is canceled, suspended, or revoked, or
412 while under suspension or revocation equivalent status, commits:

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

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

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

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

428 1. Driving under the influence;

429 2. Refusal to submit to a urine, breath-alcohol, or blood
430 alcohol test;

431 3. A traffic offense causing death or serious bodily
432 injury; or

433 4. Fleeing or eluding.

434

435 The element of knowledge is satisfied if the person has been

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

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

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

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

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