

CHAPTER 2021-187

Senate Bill No. 1134

An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 316.302, F.S.; revising regulations applicable to owners and drivers of commercial motor vehicles; revising the length of time within which an officer is authorized to give written notice requiring correction of an unduly hazardous operating condition; amending s. 316.614, F.S.; revising the definition of the term “motor vehicle”; amending s. 316.70, F.S.; providing that owners and drivers of nonpublic sector buses operated on public highways of this state are subject to specified provisions of law; authorizing the Department of Highway Safety and Motor Vehicles to conduct compliance reviews for a specified purpose; revising civil penalties; authorizing certain law enforcement officers and appointed agents to require drivers of nonpublic sector buses to submit to an inspection of the bus and the driver’s records; authorizing such officers and agents to require the bus and driver to be removed from service under specified conditions; authorizing such officers and agents to give written notice; conforming provisions to changes made by the act; creating s. 319.1414, F.S.; authorizing the department to conduct investigations and examinations of department-authorized private rebuilt inspection providers; authorizing the department to exercise certain powers when conducting such investigations and examinations; authorizing the department to petition a court if a person refuses to testify, produce materials, or obey a subpoena or subpoena duces tecum; requiring the court to issue an order; requiring such person to obey the subpoena or show cause for failing to obey the subpoena; providing a penalty for a person who fails to comply with the court’s order; authorizing the department to designate agents for specified purposes; authorizing the department to adopt rules; amending s. 319.25, F.S.; authorizing the department to conduct investigations and examinations relating to violations of provisions relating to title certificates; authorizing the department to exercise certain powers when conducting such investigations and examinations; authorizing the department to petition a court if a person refuses to testify, produce materials, or obey a subpoena or subpoena duces tecum; requiring the court to issue an order; requiring such person to obey the subpoena or show cause for failing to obey the subpoena; providing a penalty for a person who fails to comply with the court’s order; authorizing the department to designate agents for specified purposes; authorizing the department to adopt rules; amending s. 320.861, F.S.; authorizing the department to conduct investigations and examinations relating to violations of certain laws, rules, or orders relating to motor vehicle licenses; revising the powers of the department relating to conducting such investigations and examinations; authorizing the department to petition a court if a person refuses to testify, produce materials, or obey a subpoena or subpoena duces tecum; authorizing the court to issue certain orders or rulings relating to failure to obey the subpoena; authorizing the department to designate examiners,

employees, or attorneys for specified purposes; creating s. 322.71, F.S.; authorizing the department to conduct investigations and examinations relating to violations of certain laws, rules, or orders relating to driver licenses; authorizing the department to exercise certain powers when conducting such investigations and examinations; authorizing the department to petition a court if a person refuses to testify, produce materials, or obey a subpoena or subpoena duces tecum; requiring the court to issue an order; requiring such person to obey the subpoena or show cause for failing to obey the subpoena; providing a penalty for a person who fails to comply with the court's order; authorizing the department to designate agents for specified purposes; authorizing the department to adopt rules; amending s. 319.225, F.S.; revising applicability; providing that vehicles that meet certain conditions are exempt from odometer disclosure after specified periods of time; amending s. 320.0715, F.S.; requiring motor carriers and vehicle owners whose registrations have been suspended to return their license plates to the Department of Highway Safety and Motor Vehicles or surrender their license plates to law enforcement; requiring the department to deny registration of a motor vehicle trip permit under certain conditions; amending s. 322.01, F.S.; defining the term "human trafficking"; amending s. 322.05, F.S.; prohibiting the department from issuing a license to any person as a commercial motor vehicle operator under specified conditions; amending s. 322.18, F.S.; providing that commercial driver licenses expire at midnight 8 years after the licensee's birthday; amending s. 322.25, F.S.; requiring clerks of court to promptly report to the department each conviction for human trafficking, regardless of whether adjudication is withheld; amending s. 322.28, F.S.; requiring the court to permanently revoke the commercial driver license of a person under specified conditions; requiring the department to permanently revoke the driver license or driving privilege of the person if the court has not revoked such driver license or driving privilege within a specified timeframe; amending s. 322.61, F.S.; revising provisions for disqualification from operating a commercial motor vehicle; providing a penalty for any person who uses a commercial motor vehicle in the commission of a felony involving human trafficking; amending s. 322.34, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) and subsection (9) 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)

(b) Except as otherwise provided in this section, all owners and ~~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, 383,

385, 386, and 390-397, as such rules and regulations existed on December 31, ~~2020~~ 2018.

(9) For the purpose of enforcing this section, any law enforcement officer of the Department of Highway Safety and Motor Vehicles or duly appointed agent who holds a current safety inspector certification from the Commercial Vehicle Safety Alliance may require the driver of any commercial vehicle operated on the highways of this state to stop and submit to an inspection of the vehicle or the driver’s records. If the vehicle or driver is found to be operating in an unsafe condition, or if any required part or equipment is not present or is not in proper repair or adjustment, and the continued operation would present an unduly hazardous operating condition, the officer may require the vehicle or the driver to be removed from service pursuant to the North American Standard Out-of-Service Criteria, until corrected. However, if continuous operation would not present an unduly hazardous operating condition, the officer may give written notice requiring correction of the condition within ~~15~~ 14 days.

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

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

Section 2. Paragraph (a) of subsection (3) of section 316.614, Florida Statutes, is amended to read:

316.614 Safety belt usage.—

(3) As used in this section:

(a) “Motor vehicle” means a motor vehicle as defined in s. 316.003 which is operated on the roadways, streets, and highways of this state or when stationary at a traffic control device. The term does not include:

1. A school bus.
2. A bus used for the transportation of persons for compensation.
3. A farm tractor or implement of husbandry.
4. A truck having a gross vehicle weight rating of more than 26,000 pounds.
5. A motorcycle, a moped, a bicycle, or an electric bicycle.

Section 3. Section 316.70, Florida Statutes, is amended to read:

316.70 Nonpublic sector buses; safety rules.—

(1) ~~All owners and drivers of nonpublic sector buses operated on the public highways of this state are subject to the rules and regulations The Department of Transportation shall establish and revise standards to ensure the safe operation of nonpublic sector buses, which standards shall be those contained in 49 C.F.R. parts 382, 385, and 390-397 to ensure and which shall be directed toward ensuring that:~~

(a) Nonpublic sector buses are safely maintained, equipped, and operated.

(b) Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.

(c) Florida license tags are purchased for nonpublic sector buses pursuant to s. 320.38.

~~(d) The driving records of drivers of nonpublic sector buses are checked by their employers at least once each year to ascertain whether the driver has a suspended or revoked driver license.~~

(2) Department of Highway Safety and Motor Vehicles Transportation personnel may conduct compliance reviews for the purpose of determining compliance with this section. A civil penalty ~~not to exceed \$5,000 in the aggregate~~ may be assessed against any person who violates any provision of this section or who violates any rule or order of the department found during a compliance review as provided in s. 316.3025. ~~A of Transportation. A civil penalty not to exceed \$25,000 in the aggregate may be assessed for violations found in a followup compliance review conducted within a 24-month period. A civil penalty not to exceed \$25,000 in the aggregate may be assessed and the motor carrier may be enjoined from operation pursuant to s. 316.3026 for if violations found during a are found after a second followup compliance review within 12 months after the first followup compliance review. Motor carriers found to be operating without insurance coverage required by s. 627.742 or 49 C.F.R. part 387 may be enjoined as provided in s. 316.3026.~~

(3) For the purpose of enforcing this section, any law enforcement officer of the Department of Highway Safety and Motor Vehicles or a duly appointed agent of the department who holds a current safety inspector certification from the Commercial Vehicle Safety Alliance may require the driver of any nonpublic sector bus operated on the highways of this state to stop and submit to an inspection of the vehicle or the driver's records. If the vehicle is being operated or the driver is operating the vehicle in an unsafe condition, or if any required part or equipment is not present or is not in proper repair or adjustment, and the continued operation would be unduly

hazardous, the officer or agent may require the vehicle or the driver to be removed from service pursuant to the North American Standard Out-of-Service Criteria until all safety concerns are corrected. However, if continuous operation would not be unduly hazardous, the officer or agent may give written notice requiring correction of the condition within 15 days after the inspection.

~~(4)(3) School buses subject to the provisions of chapter 1006 or s. 316.615 are exempt from the provisions of this section.~~

Section 4. Section 319.1414, Florida Statutes, is created to read:

319.1414 Investigations; examinations; subpoenas; hearings; witnesses.

(1) The department may conduct investigations and examinations of department-authorized private rebuilt inspection providers as it deems necessary to determine whether a person is violating or has violated this chapter or a contract entered into pursuant to this chapter or to assist with the enforcement of this chapter.

(2) For purposes of any investigation or examination conducted pursuant to this section, the department may exercise the power of subpoena and the powers to administer oaths or affirmations, to examine witnesses, to require affidavits, to take depositions, and to compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. A designated agent of the department may serve a subpoena relating to an investigation or examination.

(3) If a person refuses to testify; produce books, papers, documents, or records; or otherwise obey a subpoena or subpoena duces tecum issued under subsection (2), the department may petition a court of competent jurisdiction in the county where the person’s residence or principal place of business is located, upon which the court must issue an order requiring such person to obey the subpoena or show cause for failing to obey the subpoena. Unless the person shows sufficient cause for failing to obey the subpoena, the court shall direct the person to obey the subpoena. Failure to comply with such order is contempt of court.

(4) For the purpose of any investigation, examination, or proceeding initiated by the department under this chapter, the department may designate agents to serve subpoenas and other process and to administer oaths or affirmations.

(5) The department may adopt rules to administer this section.

Section 5. Section 319.25, Florida Statutes, is amended to read:

319.25 Cancellation of certificates; investigations; subpoenas and other process; oaths; rules.—

(1) If it appears that a certificate of title has been improperly issued, the department shall cancel the certificate. Upon cancellation of any certificate of title, the department shall notify the person to whom the certificate of title was issued, as well as any lienholders appearing thereon, of the cancellation and shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted thereon. The holder of the certificate of title shall return it to the department forthwith. If a certificate of registration has been issued to the holder of a certificate of title so canceled, the department shall immediately cancel the certificate of registration and demand the return of such certificate of registration and license plate or mobile home sticker; and the holder of such certificate of registration and license plate or sticker shall return them to the department forthwith.

(2) The department is authorized, upon application of any person and payment of the proper fees, to prepare and furnish lists containing title information in such form as the department may authorize, to search the records of the department and make reports thereof, and to make photographic copies of the department records and attestations thereof, except as provided in chapter 119.

(3) The department may conduct investigations and examinations of any person suspected of violating or of having violated this chapter or any rule adopted or order issued under this chapter.

(4) For purposes of any investigation or examination conducted pursuant to this section, the department may exercise the power of subpoena and the powers to administer oaths or affirmations, to examine witnesses, to require affidavits, to take depositions, and to compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. An authorized representative of the department may serve a subpoena relating to an investigation or examination.

(5) If a person refuses to testify; produce books, papers, documents, or records; or otherwise obey the subpoena or subpoena duces tecum issued under subsection (4), the department may petition a court of competent jurisdiction in the county where the person's residence or principal place of business is located, upon which the court must issue an order requiring such person to obey the subpoena or show cause for failing to obey the subpoena. Unless the person shows sufficient cause for failing to obey the subpoena, the court must direct the person to obey the subpoena. Failure to comply with such order is contempt of court.

(6) For the purpose of any investigation, examination, or proceeding initiated by the department under this chapter, the department may designate agents to serve subpoenas and other process and to administer oaths or affirmations.

(7) The department may adopt rules to administer this section.

Section 6. Section 320.861, Florida Statutes, is amended to read:

320.861 Investigations; subpoenas and other process; oaths; rules of inspection of records; production of evidence; subpoena power.—

(1) The department may conduct investigations and examinations of any person whom the department reasonably suspects of violating or of having violated this chapter or any rule adopted or order issued under this chapter based on specific facts in a written complaint to the department, the department's observations, or evidence in the department's possession inspect the pertinent books, records, letters, and contracts of any licensee, whether dealer or manufacturer, relating to any written complaint made to it against such licensee.

(2) For purposes of any investigation or examination conducted pursuant to this section, the department may ~~is granted and authorized to~~ exercise the power of subpoena and, after providing a reasonable opportunity for a person or the person's employee or agent to consult with counsel, exercise the powers to administer oaths or affirmations, to examine witnesses, to require affidavits, to take depositions, and to compel the attendance of witnesses and the production of pertinent books, papers, documents, records, and other evidence relevant to the investigation or examination. A designated agent of the department may serve a subpoena relating to an investigation or examination for the attendance of witnesses and the production of any documentary evidence necessary to the disposition by it of any written complaint against any licensee, whether dealer or manufacturer.

(3) If a person refuses to testify; to produce pertinent books, papers, documents, or records; or to otherwise obey the subpoena or subpoena duces tecum issued under subsection (2), the department may petition a court of competent jurisdiction in the county where the person's residence or principal place of business is located, upon which the court may issue an order requiring such person to obey the subpoena or show cause for failing to obey the subpoena. If the court determines that the person has not shown sufficient cause for failing to obey the subpoena, the court may direct the person to obey the subpoena. The court may rule that failure to comply with such order constitutes contempt of court.

(4) For the purpose of any investigation, examination, or proceeding initiated by the department under this chapter, the department may designate examiners or investigatory employees of the department or attorneys representing the department to serve subpoenas and other process and to administer oaths or affirmations. The department shall exercise this power on its own initiative in accordance with ss. 320.615 and 320.71.

Section 7. Section 322.71, Florida Statutes, is created to read:

322.71 Investigations; subpoenas and other process; oaths; rules.—

(1) The department may conduct investigations and examinations of any person suspected of violating or of having violated any provision of this chapter or any rule adopted or order issued under this chapter.

(2) For purposes of any investigation or examination conducted pursuant to this section, the department may exercise the power of subpoena and the powers to administer oaths or affirmations, to examine witnesses, to require affidavits, to take depositions, and to compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. Such subpoenas may be served by an authorized representative of the department.

(3) If a person refuses to testify; to produce books, papers, documents, or records; or to otherwise obey the subpoena or subpoena duces tecum issued under subsection (2), the department may petition a court of competent jurisdiction in the county where the person's residence or principal place of business is located, upon which the court must issue an order requiring such person to obey the subpoena or show cause for failing to obey the subpoena. Unless the person shows sufficient cause for failing to obey the subpoena, the court must direct the person to obey the subpoena. Failure to comply with such order constitutes contempt of court.

(4) For the purpose of any investigation, examination, or proceeding initiated by the department under this chapter, the department may designate agents to serve subpoenas and other process and to administer oaths or affirmations.

(5) The department may adopt rules to administer this section.

Section 8. Subsection (4) of section 319.225, Florida Statutes, is amended to read:

319.225 Transfer and reassignment forms; odometer disclosure statements.—

(4) Upon transfer or reassignment of a certificate of title to a used motor vehicle, the transferor shall complete the odometer disclosure statement provided for by this section and the transferee shall acknowledge the disclosure by signing and printing his or her name in the spaces provided. This subsection does not apply to a vehicle that has a gross vehicle rating of more than 16,000 pounds, a vehicle that is not self-propelled, or a vehicle that is exempt from odometer disclosure. A vehicle with a model year of 2011 or newer is exempt from odometer disclosure after 20 years, and a vehicle with a model year of 2010 or older is exempt from odometer disclosure after 10 years ~~old or older~~. A lessor who transfers title to his or her vehicle without obtaining possession of the vehicle shall make odometer disclosure as provided by 49 C.F.R. s. 580.7. Any person who fails to complete or acknowledge a disclosure statement as required by this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082

or s. 775.083. The department may not issue a certificate of title unless this subsection has been complied with.

Section 9. Subsections (6) and (7) are added to section 320.0715, Florida Statutes, to read:

320.0715 International Registration Plan; motor carrier services; permits; retention of records.—

(6) A motor carrier or vehicle owner whose registration has been suspended shall return his or her license plate to the department or surrender his or her license plates to law enforcement.

(7) The department shall deny registration if:

(a) The applicant fails to disclose material information required on the application;

(b) The applicant has applied in an attempt to hide the disclosure of the real party in interest who has been issued a federal out-of-service order; or

(c) The applicant’s business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, a family member, a corporate officer, or a shareholder.

Section 10. Present subsections (25) through (47) of section 322.01, Florida Statutes, are redesignated as subsections (26) through (48), respectively, and a new subsection (25) is added to that section, to read:

322.01 Definitions.—As used in this chapter:

(25) “Human trafficking” has the same meaning as provided in s. 787.06(2)(d).

Section 11. Subsection (12) is added to section 322.05, Florida Statutes, to read:

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

(12) To any person, as a commercial motor vehicle operator, who has been convicted of, or has entered a plea of guilty or nolo contendere to, regardless of whether adjudication was withheld, any felony involving human trafficking under state or federal law involving the use of a commercial motor vehicle.

Section 12. Paragraph (f) is added to subsection (2) of section 322.18, Florida Statutes, to read:

322.18 Original applications, licenses, and renewals; expiration of licenses; delinquent licenses.—

(2) Each applicant who is entitled to the issuance of a driver license, as provided in this section, shall be issued a driver license, as follows:

(f) Notwithstanding any other provision of this chapter, an applicant applying for an original issuance of a commercial driver license as defined in s. 322.01(7) shall be issued a driver license that expires at midnight 8 years after the licensee's last birthday.

Section 13. Subsection (7) is added to section 322.25, Florida Statutes, to read:

322.25 When court to forward license to department and report convictions.—

(7) Each clerk of court shall promptly report to the department each conviction, regardless of whether adjudication was withheld, for human trafficking which involves the use of a commercial motor vehicle.

Section 14. Subsection (8) is added to section 322.28, Florida Statutes, to read:

322.28 Period of suspension or revocation.—

(8) The court shall permanently revoke the commercial driver license of a person who is convicted of, or has entered a plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, any felony involving human trafficking under state or federal law which involves the use of a commercial motor vehicle. If the court has not permanently revoked such driver license or driving privilege within 30 days after imposing a sentence, the department must permanently revoke the driver license or driving privilege pursuant to this section.

Section 15. Section 322.61, Florida Statutes, is 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 holder of a commercial driver license or commercial learner's permit 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 shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege:

(a) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a crash resulting in death;

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

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

(d) Improper lane change, as defined in s. 316.085;

(e) Following too closely, as defined in s. 316.0895;

(f) Driving a commercial vehicle without obtaining a commercial driver license;

(g) Driving a commercial vehicle without the proper class of commercial driver license or commercial learner’s permit or without the proper endorsement; or

(h) Driving a commercial vehicle without a commercial driver license or commercial learner’s permit in possession, as required by s. 322.03;

(i) Texting while driving; or

(j) Using a handheld mobile telephone while driving.

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

(b) A holder of a commercial driver license or commercial learner’s permit who, for offenses occurring within a 3-year period, is convicted of three serious traffic violations specified in subsection (1) or any combination thereof arising in separate incidents committed in a noncommercial motor vehicle shall, in addition to any other applicable penalties, including, but not limited to, the penalty provided in subsection (1), be disqualified from operating a commercial motor vehicle for a period of 120 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder’s driving privilege.

(3)(a) Except as provided in subsection (4), any person who is convicted of one of the offenses listed in paragraph (b) while operating a commercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 1 year.

(b) Except as provided in subsection (4), any holder of a commercial driver license or commercial learner's permit who is convicted of one of the offenses listed in this paragraph while operating a noncommercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 1 year:

1. Driving a motor vehicle while he or she is under the influence of alcohol or a controlled substance;

2. Driving a commercial motor vehicle while the alcohol concentration of his or her blood, breath, or urine is .04 percent or higher;

3. Leaving the scene of a crash involving a motor vehicle driven by such person;

4. Using a motor vehicle in the commission of a felony;

5. Refusing to submit to a test to determine his or her alcohol concentration while driving a motor vehicle;

6. Driving a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, his or her commercial driver license or commercial learner's permit is revoked, suspended, or canceled, or he or she is disqualified from operating a commercial motor vehicle; or

7. Causing a fatality through the negligent operation of a commercial motor vehicle.

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

(5) A person who is convicted of two violations specified in subsection (3) which were committed while operating a commercial motor vehicle, or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle. A holder of a commercial driver license or commercial learner's permit who is convicted of two violations specified in subsection (3) which were committed while operating any motor vehicle arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle. The penalty provided in this subsection is in addition to any other applicable penalty.

(6) Notwithstanding subsections (3), (4), and (5), any person who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, including possession with intent to manufacture, distribute, or dispense a controlled substance, shall, upon conviction of such felony, be permanently disqualified from operating a commercial motor vehicle. Notwithstanding subsections

(3), (4), and (5), any holder of a commercial driver license or commercial learner's permit who uses a noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, including possession with intent to manufacture, distribute, or dispense a controlled substance, shall, upon conviction of such felony, be permanently disqualified from operating a commercial motor vehicle. The penalty provided in this subsection is in addition to any other applicable penalty.

(7) Any person who uses a commercial motor vehicle in the commission of any felony involving human trafficking under state or federal law shall, upon conviction of, or plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, such felony, be permanently disqualified from operating a commercial motor vehicle. The penalty provided in this subsection is in addition to any other applicable penalty.

~~(8)~~(7) A person whose privilege to operate a commercial motor vehicle is disqualified under this section may, if otherwise qualified, be issued a Class E driver license, pursuant to s. 322.251.

~~(9)~~(8) A driver who is convicted of or otherwise found to have committed a violation of an out-of-service order while driving a commercial motor vehicle is disqualified as follows:

(a) At least 180 days but not more than 1 year if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order.

(b) At least 2 years but not more than 5 years if, for offenses occurring during any 10-year period, the driver is convicted of or otherwise found to have committed two violations of out-of-service orders in separate incidents.

(c) At least 3 years but not more than 5 years if, for offenses occurring during any 10-year period, the driver is convicted of or otherwise found to have committed three or more violations of out-of-service orders in separate incidents.

(d) At least 180 days but not more than 2 years if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 U.S.C. ss. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of at least 3 years but not more than 5 years if, for offenses occurring during any 10-year period, the driver is convicted of or otherwise found to have committed any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 U.S.C. ss. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver.

~~(10)~~(9) A driver who is convicted of or otherwise found to have committed an offense of operating a commercial motor vehicle in violation of federal, state, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in subsection ~~(11)~~ (10):

(a) For drivers who are not always required to stop, failing to slow down and check that the tracks are clear of approaching trains.

(b) For drivers who are not always required to stop, failing to stop before reaching the crossing if the tracks are not clear.

(c) For drivers who are always required to stop, failing to stop before driving onto the crossing.

(d) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping.

(e) For all drivers, failing to obey a traffic control device or all directions of an enforcement official at the crossing.

(f) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

~~(11)(a)~~(10)(a) A driver must be disqualified for at least 60 days if the driver is convicted of or otherwise found to have committed a first violation of a railroad-highway grade crossing violation.

(b) A driver must be disqualified for at least 120 days if, for offenses occurring during any 3-year period, the driver is convicted of or otherwise found to have committed a second railroad-highway grade crossing violation in separate incidents.

(c) A driver must be disqualified for at least 1 year if, for offenses occurring during any 3-year period, the driver is convicted of or otherwise found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents.

Section 16. Subsection (2) of section 322.34, Florida Statutes, is amended to read:

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

(2) Any person whose driver license or driving privilege has been canceled, suspended, or revoked as provided by law, or who does not have a driver license or driving privilege but is under suspension or revocation equivalent status as defined in ~~s. 322.01(42)~~ s. 322.01(41), except persons defined in s. 322.264, who, knowing of such cancellation, suspension, revocation, or suspension or revocation equivalent status, drives any motor vehicle upon the highways of this state while such license or privilege

is canceled, suspended, or revoked, or while under suspension or revocation equivalent status, commits:

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

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

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

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

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

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

Section 17. This act shall take effect July 1, 2021.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.