

CHAPTER 2024-151

Committee Substitute for House Bill No. 405

An act relating to regulation of commercial motor vehicles; amending s. 316.302, F.S.; revising federal regulations to which owners and operators of certain commercial motor vehicles are subject; deleting obsolete language; amending s. 322.01, F.S.; revising and providing definitions; amending s. 322.02, F.S.; charging the Department of Highway Safety and Motor Vehicles with the administration and enforcement of certain federal regulations; amending s. 322.05, F.S.; prohibiting the department from issuing a commercial motor vehicle license to a person who is ineligible under certain federal regulations; amending s. 322.07, F.S.; revising circumstances under which the department shall issue a temporary commercial instruction permit; amending s. 322.21, F.S.; applying a reinstatement service fee to a person whose privilege to operate a commercial vehicle has been downgraded; applying a filing fee to a person applying for or seeking to renew, transfer, or make any other change to a commercial driver license or temporary commercial instruction permit; amending s. 322.31, F.S.; requiring that the final orders and rulings of the department wherein a commercial driver license or temporary commercial instruction permit is downgraded be reviewable; creating s. 322.591, F.S.; requiring the department to obtain a person's driving record from the Commercial Driver's License Drug and Alcohol Clearinghouse; prohibiting the department from performing certain actions for a person who is prohibited from operating a commercial motor vehicle under certain federal regulations; requiring the department to downgrade a commercial driver license or temporary commercial instruction permit of a person who is prohibited from operating a commercial motor vehicle under such regulations and to record such downgrade in the Commercial Driver's License Information System; requiring the department to provide to such person certain notification and, upon request, an opportunity for an informal hearing; providing hearing requirements; requiring the department to enter a final order directing the downgrade of the person's commercial driver license or temporary commercial instruction permit under certain circumstances; providing an exception; exempting an informal hearing from certain provisions; authorizing such hearing to be conducted by means of communications technology; requiring the department to dismiss the action to downgrade the person's commercial driver license or temporary commercial instruction permit under certain circumstances; requiring the department to record the disqualification of a person from operating a commercial motor vehicle in the person's driving record upon entry of a final order to downgrade the person's commercial driver license or temporary commercial instruction permit; providing construction; requiring reinstatement of the person's commercial driver license or temporary commercial instruction permit under certain circumstances; limiting liability of the department; specifying that certain provisions are the exclusive procedure for downgrade of a commercial

driver license or temporary commercial instruction permit; providing construction; authorizing issuance of a Class E driver license to a person who is prohibited from operating a commercial motor vehicle under certain circumstances; amending ss. 322.34 and 322.61, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsection (1), paragraph (d) of subsection (2), 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)(a) All owners and drivers of commercial motor vehicles that are operated on the public highways of this state while engaged in interstate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 383, 384, 385, 386, and 390-397.

(b) Except as otherwise provided in this section, all owners and 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, 384, 385, 386, and 390-397, as such rules and regulations existed on December 31, 2023 ~~2020~~.

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

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

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

(2)

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

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

(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 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 corrected. However, if continuous operation would not present an unduly hazardous operating condition, the officer or agent may give written notice requiring correction of the condition within 15 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. Subsections (16) through (48) of section 322.01, Florida Statutes, are renumbered as subsections (17) through (49), respectively, subsection (5) and present subsections (37) and (41) are amended, and a new subsection (16) is added to that section, to read:

322.01 Definitions.—As used in this chapter:

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

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

(38)(37) “Revocation” means the termination of a licensee’s privilege to drive. The term does not include a downgrade.

(42)(41) “Suspension” means the temporary withdrawal of a licensee’s privilege to drive a motor vehicle. The term does not include a downgrade.

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

322.02 Legislative intent; administration.—

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

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

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

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

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

322.07 Instruction permits and temporary licenses.—

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

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

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

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

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

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

(8) A person who applies for reinstatement following the suspension or revocation of the person's driver license must pay a service fee of \$45 following a suspension, and \$75 following a revocation, which is in addition to the fee for a license. A person who applies for reinstatement of a commercial driver license following the disqualification ~~or downgrade~~ of the

person's privilege to operate a commercial motor vehicle must shall pay a service fee of \$75, which is in addition to the fee for a license. The department shall collect all of these fees at the time of reinstatement. The department shall issue proper receipts for such fees and shall promptly transmit all funds received by it as follows:

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

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

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

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

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

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

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

(9) An applicant:

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

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

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

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

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

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

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

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

(b) An informal hearing under paragraph (a) must be requested no later than 20 days after the person receives the notice of the downgrade. If a request for a hearing is not received within 20 days after receipt of such

notice, the department must enter a final order directing the downgrade of the person's commercial driver license or temporary commercial instruction permit unless the department receives notification that, pursuant to 49 C.F.R. s. 382.503(a), the person is no longer prohibited from operating a commercial motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

Section 9. 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(43)~~ ~~s. 322.01(42)~~, 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 10. Subsection (4) of section 322.61, Florida Statutes, is amended to read:

322.61 Disqualification from operating a commercial motor vehicle.—

(4) Any person who is transporting hazardous materials as defined in s. 322.01(25) ~~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.

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

Approved by the Governor May 6, 2024.

Filed in Office Secretary of State May 6, 2024.