

28.9(a) NO VALID COMMERCIAL DRIVER LICENSE

§ 322.53, Fla. Stat.

To prove the crime of No Valid Commercial Driver License, the State must prove the following two elements beyond a reasonable doubt:

- 1. (Defendant) drove a commercial motor vehicle in this state.**
- 2. At the time, the defendant did not have a valid commercial driver license issued by the Department of Highway Safety and Motor Vehicles of the State of Florida.**

§ 322.01, Fla. Stat.

To “drive a commercial motor vehicle” means to operate or be in actual physical control of a commercial motor vehicle in any place open to the general public for purposes of vehicular traffic.

§ 322.01, Fla. Stat.

“Commercial motor vehicle” means any motor vehicle used on the streets or highways, which:

- a. Has a gross vehicle weight rating of 26,001 pounds or more;**
- b. Is designed to transport more than 15 persons, including the driver, or;**
- c. Is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. part 172, subpart F.**

§ 322.01, Fla. Stat. Some of these terms (such as “vehicle” and “electric bicycle”) have their own statutory definitions, which should be given if necessary.

“Motor vehicle” means any self-propelled vehicle, including a motor vehicle combination, not operated upon rails or guideway, excluding vehicles moved solely by human power[, motorized wheelchairs, and electric bicycles].

§ 322.01, Fla. Stat.

“Valid commercial driver license” means a Class A, Class B, or Class C driver license issued by the Department of Highway Safety and Motor Vehicles of the State of Florida that has not expired, been disqualified, suspended, revoked or canceled, or is not in “suspension or revocation equivalent status.”

§ 322.01, Fla. Stat.

“Street or Highway” means the entire width between the boundary lines of every way or place if any part thereof is open to the use of the public for purposes of vehicular traffic.

§ 322.03(3)(c), Fla. Stat.

“Expired” means the license was not renewed on or before the expiration date and that more than 30 days have passed since the expiration date.

§ 322.01, Fla. Stat.

“Disqualification” means a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle.

“Suspended” means the privilege to drive a motor vehicle has been temporarily withdrawn.

“Revoked” means the privilege to drive a motor vehicle has been terminated.

“Canceled” means that a license has been declared void and terminated.

“Suspension or revocation equivalent status” is a designation for a person who does not have a driver license or driving privilege but would qualify for suspension or revocation of his or her driver license or driving privilege if licensed.

The option of “on a vehicle” pertains to a vehicle such as a motorcycle.

“Actual physical control” of a vehicle means the defendant must be physically in or on the vehicle and have the capability to operate the vehicle, regardless of whether [he] [she] is actually operating the vehicle at the time.

Lesser Included Offense

NO VALID COMMERCIAL DRIVER’S LICENSE — 322. 53

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	No Valid Driver License	322.03	28.9
	Attempt	777.04(1)	5.1

Comments

If any of the exemptions set forth in § 322.53(2), Fla. Stat., may apply, a special instruction will be necessary.

If the State is relying on the “transporting hazardous materials” alternative for the definition of “commercial motor vehicle,” a special instruction regarding 49 C.F.R. part 172, subpart F will be necessary.

This instruction was adopted in 2007 [958 So. 2d 361] and amended in 2013 [131 So. 3d 692], on April 1, 2020, and on October 2, 2020.