

House File 2279

H-8136

1 Amend the amendment, H-8135, to House File 2279 as follows:

2 1. By striking page 1, line 1, through page 3, line 19, and
3 inserting:

4 <Amend House File 2279 as follows:

5 1. By striking everything after the enacting clause and
6 inserting:

7 <DIVISION I

8 UNEMPLOYMENT INSURANCE

9 Section 1. Section 96.2, Code 2022, is amended to read as
10 follows:

11 **96.2 Guide for interpretation.**

12 As a guide to the interpretation and application of this
13 chapter, the public policy of this state is declared to be as
14 follows: ~~Economic insecurity due to unemployment is a serious~~
15 ~~menace to~~ negatively impacts the health, morals, and welfare
16 of the people of this state Iowa. ~~Involuntary unemployment~~
17 ~~is therefore a subject of general interest and concern which~~
18 ~~requires appropriate action by the legislature to prevent~~
19 ~~its spread and to lighten its burden which now so often~~
20 ~~falls with crushing force upon the unemployed worker and the~~
21 ~~worker's family. The achievement of social security requires~~
22 ~~protection against this greatest hazard of our economic~~
23 ~~life. This can be provided~~ These undesirable consequences can
24 be reduced by encouraging employers to provide more stable
25 employment and by the systematic accumulation of funds during
26 periods of employment to provide benefits for periods of
27 unemployment, ~~thus maintaining purchasing power and limiting~~
28 ~~the serious social consequences of poor relief assistance.~~
29 ~~The legislature, therefore, declares that in its considered~~
30 ~~judgment the public good and the general welfare of the~~
31 ~~citizens of this state require the enactment of this measure,~~
32 ~~under the police powers of the state, for the compulsory~~
33 ~~setting aside of unemployment reserves to be used for the~~
34 ~~benefit of persons.~~ This chapter provides for payment of
35 benefits to workers unemployed through no fault of their own.

1 The policy herein is intended to encourage stabilization in
2 employment, to provide for integrated employment and training
3 services in support of state economic development programs, and
4 to provide meaningful job training and employment opportunities
5 for the unemployed, underemployed, economically disadvantaged,
6 dislocated workers, and others with substantial barriers to
7 employment. To further this public policy, the state, through
8 its department of workforce development, will maintain close
9 coordination among all federal, state, and local agencies
10 whose missions affect the employment or employability of the
11 unemployed and underemployed.

12 Sec. 2. Section 96.3, subsection 5, paragraph a, Code 2022,
13 is amended to read as follows:

14 *a. Duration of benefits.* The maximum total amount of
15 benefits payable to an eligible individual during a benefit
16 year shall not exceed the total of the wage credits accrued to
17 the individual's account during the individual's base period,
18 or ~~twenty-six~~ sixteen times the individual's weekly benefit
19 amount, whichever is the lesser. The director shall maintain
20 a separate account for each individual who earns wages in
21 insured work. The director shall compute wage credits for
22 each individual by crediting the individual's account with
23 one-third of the wages for insured work paid to the individual
24 during the individual's base period. However, the director
25 shall recompute wage credits for an individual who is laid
26 off due to the individual's employer going out of business at
27 the factory, establishment, or other premises at which the
28 individual was last employed, by crediting the individual's
29 account with one-half, instead of one-third, of the wages for
30 insured work paid to the individual during the individual's
31 base period. Benefits paid to an eligible individual shall
32 be charged against the base period wage credits in the
33 individual's account which have not been previously charged,
34 in the inverse chronological order as the wages on which the
35 wage credits are based were paid. However if the state "off"

1 indicator is in effect and if the individual is laid off due to
2 the individual's employer going out of business at the factory,
3 establishment, or other premises at which the individual was
4 last employed, the maximum benefits payable shall be extended
5 to ~~thirty-nine~~ twenty-six times the individual's weekly benefit
6 amount, but not to exceed the total of the wage credits accrued
7 to the individual's account.

8 Sec. 3. Section 96.4, Code 2022, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 8. The individual has satisfied a single
11 one-week waiting period during the individual's benefit year.
12 To satisfy the one-week waiting period, the individual, with
13 respect to the week in question, must otherwise be eligible
14 for benefits from this state, must not have received or have
15 payable benefits from this state, and must not be eligible for
16 benefits from another state.

17 Sec. 4. Section 96.5, subsection 2, Code 2022, is amended by
18 adding the following new paragraph:

19 NEW PARAGRAPH. *d.* For the purposes of this subsection,
20 "*misconduct*" means a deliberate act or omission by an
21 employee that constitutes a material breach of the duties
22 and obligations arising out of the employee's contract of
23 employment. Misconduct is limited to conduct evincing such
24 willful or wanton disregard of an employer's interest as
25 is found in deliberate violation or disregard of standards
26 of behavior which the employer has the right to expect of
27 employees, or in carelessness or negligence of such degree of
28 recurrence as to manifest equal culpability, wrongful intent
29 or evil design, or to show an intentional and substantial
30 disregard of the employer's interests or of the employee's
31 duties and obligations to the employer. Misconduct by an
32 individual includes but is not limited to all of the following:

33 (1) Material falsification of the individual's employment
34 application.

35 (2) Knowing violation of a reasonable and uniformly

1 enforced rule of an employer.

2 (3) Intentional damage of an employer's property.

3 (4) Consumption of alcohol, illegal or nonprescribed
4 prescription drugs, or an impairing substance in a manner
5 not directed by the manufacturer, or a combination of such
6 substances, on the employer's premises in violation of the
7 employer's employment policies.

8 (5) Reporting to work under the influence of alcohol,
9 illegal or nonprescribed prescription drugs, or an impairing
10 substance in an off-label manner, or a combination of such
11 substances, on the employer's premises in violation of the
12 employer's employment policies, unless the individual is
13 compelled to work by the employer outside of scheduled or
14 on-call working hours.

15 (6) Conduct that substantially and unjustifiably endangers
16 the personal safety of coworkers or the general public.

17 (7) Incarceration for an act for which one could reasonably
18 expect to be incarcerated that results in missing work.

19 (8) Incarceration as a result of a misdemeanor or felony
20 conviction by a court of competent jurisdiction.

21 (9) Excessive unexcused tardiness or absenteeism.

22 (10) Falsification of any work-related report, task, or job
23 that could expose the employer or coworkers to legal liability
24 or sanction for violation of health or safety laws.

25 (11) Failure to maintain any license, registration, or
26 certification that is reasonably required by the employer or
27 by law, or that is a functional requirement to perform the
28 individual's regular job duties, unless the failure is not
29 within the control of the individual.

30 (12) Conduct that is libelous or slanderous toward an
31 employer or an employee of the employer if such conduct is not
32 protected under state or federal law.

33 (13) Conduct creating or attempting to create dissention or
34 animus against the employer or a coworker if such conduct is
35 not protected under state or federal law.

1 (14) Theft of an employer or coworker's funds or property.

2 (15) Intentional misrepresentation of time worked or work
3 carried out that results in the individual receiving unearned
4 wages or unearned benefits.

5 Sec. 5. Section 96.5, subsection 3, paragraph a,
6 subparagraph (1), subparagraph divisions (a), (b), (c), and
7 (d), Code 2022, are amended to read as follows:

8 (a) One hundred percent, if the work is offered during the
9 first ~~five weeks~~ week of unemployment.

10 (b) ~~Seventy-five~~ Ninety percent, if the work is offered
11 during the ~~sixth~~ second through the ~~twelfth~~ third week of
12 unemployment.

13 (c) ~~Seventy~~ Eighty percent, if the work is offered during
14 the ~~thirteenth~~ fourth through the ~~eighteenth~~ fifth week of
15 unemployment.

16 (d) ~~Sixty-five~~ Seventy percent, if the work is offered
17 ~~after~~ during the ~~eighteenth~~ sixth through the ~~eighth~~ seventh week of
18 unemployment.

19 Sec. 6. Section 96.5, subsection 3, paragraph a,
20 subparagraph (1), Code 2022, is amended by adding the following
21 new subparagraph division:

22 NEW SUBPARAGRAPH DIVISION. (e) Sixty percent, if the work
23 is offered after the eighth week of unemployment.

24 Sec. 7. Section 96.6, subsection 3, paragraph b, Code 2022,
25 is amended to read as follows:

26 *b.* Appeals from the initial determination shall be heard
27 by an administrative law judge employed by the department.
28 An administrative law judge's decision may be appealed by
29 any party to the employment appeal board created in section
30 10A.601. ~~The decision of the appeal board is final agency~~
31 ~~action and an appeal of the decision shall be made~~ or directly
32 to the district court.

33

DIVISION II

34

TORT LIABILITY

35 Sec. 8. Section 147.136A, subsection 1, Code 2022, is

1 amended by adding the following new paragraph:

2 NEW PARAGRAPH. *Ob.* "Inflation" means the annual percentage
3 change in the United States department of labor bureau of labor
4 statistics consumer price index for all urban consumers for the
5 midwest region, all items, or its successor index.

6 Sec. 9. Section 147.136A, subsection 1, paragraph b, Code
7 2022, is amended to read as follows:

8 *b.* (1) "Noneconomic damages" means damages arising from
9 pain, suffering, inconvenience, physical impairment, mental
10 anguish, emotional pain and suffering, loss of chance, loss of
11 consortium, or any other nonpecuniary damages.

12 (2) "Noneconomic damages" does not include the loss of
13 dependent care, including the loss of child care, due to
14 the death of or severe injury to a spouse or parent who is
15 the primary caregiver of a child under the age of eighteen
16 or a disabled adult, and does not include the cost of full
17 or part-time child care. Such damages shall be considered
18 economic damages.

19 Sec. 10. Section 147.136A, subsection 2, Code 2022, is
20 amended to read as follows:

21 2. The total amount recoverable in any civil action for
22 noneconomic damages for personal injury or death, whether in
23 tort, contract, or otherwise, against a health care provider
24 ~~shall be limited to two hundred fifty thousand dollars~~ for any
25 occurrence resulting in injury or death of a patient regardless
26 of the number of plaintiffs, derivative claims, theories of
27 liability, or defendants in the civil action, shall not exceed
28 two hundred fifty thousand dollars unless the jury determines
29 that there is a substantial or permanent loss or impairment of
30 a bodily function, substantial disfigurement, or death, which
31 warrants a finding that imposition of such a limitation would
32 deprive the plaintiff of just compensation for the injuries
33 sustained, in which case the amount recoverable shall not
34 exceed one million dollars.

35 Sec. 11. Section 147.136A, Code 2022, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 4. *a.* The limitation on damages set
3 forth in subsection 2 shall be adjusted for inflation by the
4 secretary of state on January 1, 2026, and each January 1 of an
5 even-numbered year thereafter.

6 *b.* The secretary of state shall certify the adjusted
7 limitation on damages within fourteen days after the
8 appropriate information is available.

9 Sec. 12. NEW SECTION. **668.12A Liability for employee**
10 **negligence in actions involving commercial motor vehicles.**

11 1. Subject to subsection 4, in a civil action involving the
12 operation of a commercial motor vehicle as defined in section
13 321.1, if an employer who is a defendant in the action complies
14 with subsection 2, the employer's liability for damages caused
15 by the negligence of an employee operating a motor vehicle
16 within the course and scope of employment shall be based
17 solely on respondeat superior and not on the employer's direct
18 negligence in hiring, training, supervising, or trusting the
19 employee.

20 2. On motion of an employer who is the defendant in a
21 civil action involving the operation of a commercial motor
22 vehicle, a trial court shall dismiss from the civil action
23 any claim of the employer's direct negligence in hiring,
24 training, supervising, or trusting the employee, or other
25 claim of direct negligence on the part of the employer for the
26 employee's harmful conduct, or other similar claims, if the
27 employer stipulates that at the time of the event that caused
28 the damages that are the subject of the civil action that the
29 person whose negligence is alleged to have caused the damages
30 was the employer's employee and was acting within the course
31 and scope of employment with the employer.

32 3. If an employer makes the stipulations in subsection 2
33 with respect to an employee, and the employee's negligence is
34 found to have caused or contributed to causing the damages,
35 the employer shall be adjudged liable solely on the basis of

1 respondeat superior for all the resulting damages.

2 4. This section shall not apply if the civil action
3 involving a commercial motor vehicle arises from an incident
4 for which an employee is convicted under section 321J.2 or
5 found to be in violation of 49 C.F.R. §392.4 or 49 C.F.R.
6 §392.5.

7 5. As used in this section, unless the context requires
8 otherwise:

9 a. "*Convicted*" means convicted of an indictable offense and
10 includes a guilty plea or other finding of guilt by a court of
11 competent jurisdiction.

12 b. "*Operation*" or "*operating*" means actual physical control
13 of a commercial motor vehicle upon a highway as defined in
14 section 321.1.

15 Sec. 13. NEW SECTION. 668.15A Noneconomic damages —
16 commercial motor vehicle owners or operators.

17 1. As used in this section:

18 a. "*Commercial motor vehicle*" means the same as defined in
19 section 321.1.

20 b. "*Convicted*" means convicted of an indictable offense and
21 includes a guilty plea or other finding of guilt by a court of
22 competent jurisdiction.

23 c. "*Inflation*" means the annual percentage change in the
24 United States department of labor bureau of labor statistics
25 consumer price Index for all urban consumers for the midwest
26 region, all items, or its successor index.

27 d. "*Noneconomic damages*" means damages arising from
28 pain, suffering, inconvenience, physical impairment, mental
29 anguish, emotional pain and suffering, loss of chance, loss of
30 consortium, or any other nonpecuniary damages.

31 e. "*Occurrence*" means the event, incident, or happening,
32 and the acts or omissions incident thereto, which proximately
33 caused injuries or damages for which recovery is claimed.

34 f. "*Operation*" or "*operating*" means actual physical control
35 of a commercial motor vehicle upon a highway as defined in

1 section 321.1.

2 2. The total amount recoverable by each plaintiff in any
3 civil action involving the operation of a motor vehicle for
4 noneconomic damages for personal injury or death, whether in
5 tort, contract, or otherwise, against the owner or operator
6 of a commercial motor vehicle shall be limited to one million
7 dollars, regardless of the number of claims, theories of
8 liability, or defendants in the civil action.

9 3. This section shall not apply if the civil action
10 involving a commercial motor vehicle arises from an incident
11 for which an employee is convicted under section 321J.2 or
12 found to be in violation of 49 C.F.R. §392.4 or 49 C.F.R.
13 §392.5.

14 4. a. The limitation on damages set forth in subsection 2
15 shall be adjusted for Inflation by the secretary of state on
16 January 1, 2026, and each January 1 of an even-numbered year
17 thereafter.

18 b. The secretary of state shall certify the adjusted
19 limitation on damages within fourteen days after the
20 appropriate information is available.

21 Sec. 14. Section 668A.1, subsection 2, Code 2022, is amended
22 to read as follows:

23 2. An award for punitive or exemplary damages shall not be
24 made unless the answer or finding pursuant to [subsection 1](#),
25 paragraph "a", is affirmative. If such answer or finding is
26 affirmative, the jury, or court if there is no jury, shall fix
27 the amount of punitive or exemplary damages to be awarded, and
28 such damages shall be ordered paid as follows:

29 a. If the answer or finding pursuant to [subsection 1](#),
30 paragraph "b", is affirmative, or if the claim is against any
31 physician and surgeon, osteopathic physician and surgeon,
32 dentist, podiatric physician, optometrist, pharmacist,
33 chiropractor, physician assistant, or nurse, licensed under
34 chapter 147, or a hospital licensed under chapter 135B, arising
35 out of patient care, then the full amount of the punitive or

1 exemplary damages awarded shall be paid to the claimant.

2 *b.* If the answer or finding pursuant to [subsection 1](#),
3 paragraph “*b*”, is negative, and if the claim is not against
4 any physician and surgeon, osteopathic physician and surgeon,
5 dentist, podiatric physician, optometrist, pharmacist,
6 chiropractor, physician assistant, or nurse, licensed under
7 chapter 147, or a hospital licensed under chapter 135B, arising
8 out of patient care, then after payment of all applicable
9 costs and fees, an amount not to exceed twenty-five percent
10 of the punitive or exemplary damages awarded may be ordered
11 paid to the claimant, with the remainder of the award to be
12 ordered paid into a civil reparations trust fund administered
13 by the state court administrator. Funds placed in the civil
14 reparations trust shall be under the control and supervision of
15 the executive council, and shall be disbursed only for purposes
16 of indigent civil litigation programs or insurance assistance
17 programs.

18 *c.* Notwithstanding paragraphs “*a*” and “*b*”, if the claim
19 involves the operation of a commercial motor vehicle, then the
20 full amount of the punitive or exemplary damages awarded shall
21 be paid to the claimant.

22 Sec. 15. Section 668A.1, Code 2022, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 2A. A claim for punitive or exemplary
25 damages shall not be included in any initial claim for relief.
26 A claim for punitive or exemplary damages may be allowed by
27 amendment to the pleadings only after the exchange of initial
28 disclosures pursuant to the Iowa rules of civil procedure and
29 after the plaintiff establishes prima facie proof of a triable
30 issue. After the plaintiff establishes the existence of a
31 triable issue, the court may, in its discretion and subject
32 to subsection 3, allow discovery on the issue of punitive or
33 exemplary damages as the court deems appropriate.

34 DIVISION III

35 COVID-19 — PROOF OF VACCINATION — IMMUNIZATION STATUS

1 Sec. 16. Section 27C.2, Code 2022, is amended to read as
2 follows:

3 **27C.2 ~~Proof~~ COVID-19 proof of vaccination — immunization**
4 **status — denial of state grants or contracts — penalties.**

5 1. Notwithstanding any provision of law to the contrary,
6 a business, educational institution, or governmental entity
7 shall not require a customer, patron, client, patient, or
8 other person who is invited onto the premises of the business
9 or governmental entity to furnish proof of having received a
10 vaccination for COVID-19, ~~as defined in section 686D.2~~, prior
11 to entering onto the premises of the business, educational
12 institution, or governmental entity. ~~This section does not~~
13 ~~prohibit a business or governmental entity from implementing~~
14 ~~a COVID-19 screening protocol that does not require proof of~~
15 ~~vaccination for COVID-19.~~

16 2. A business, educational institution, employer, or
17 governmental entity shall not do any of the following:

18 a. Refuse, withhold from, or deny to a person any
19 services, goods, facilities, advantages, privileges, access,
20 transportation or freedom of movement, licensing, educational
21 opportunities, or access to medical care, based on the person's
22 COVID-19 immunization status.

23 b. Except when federal law otherwise requires, exclude,
24 segregate, refuse to serve, require a mask or other facial
25 covering, require testing, or otherwise discriminate against a
26 person, based on the person's COVID-19 immunization status.

27 ~~2.~~ 3. Notwithstanding any provision of law to the contrary,
28 grants or contracts funded by state revenue shall not be
29 awarded to or renewed with respect to a business, educational
30 institution, or governmental entity that violates subsection 1
31 on or after May 20, 2021.

32 4. Except when federal law otherwise requires immunization
33 against COVID-19 related to employment, an employer discharges
34 an employee based on the employee's COVID-19 immunization
35 status, the discharged individual files a claim for benefits

1 pursuant to section 96.6, and the department of workforce
2 development determines the discharged individual was discharged
3 based upon the discharged individual's COVID-19 immunization
4 status in violation of this section, the employer shall pay a
5 fine of fifty thousand dollars to the department of workforce
6 development. Upon receipt of the fine, the department of
7 workforce development shall award twenty-five thousand dollars
8 to the discharged individual and shall retain twenty-five
9 thousand dollars as repayment receipts as defined in section
10 8.2. Notwithstanding section 8.33, moneys retained by the
11 department of workforce development pursuant to this section
12 are not subject to reversion to the general fund of the state.

13 ~~3.~~ 5. For the purposes of this section:

14 a. "Business" means a retailer required to obtain a
15 sales tax permit pursuant to chapter 423, a nonprofit or
16 not-for-profit organization, or an establishment which is open
17 to the public at large or where entrance is limited by a cover
18 charge or membership requirement, but does not include a health
19 care facility as defined in section 686D.2.

20 b. "COVID-19" means the same as defined in section 686D.2.

21 c. "Educational institution" includes any licensed child
22 care center as defined in section 237A.1, preschool, elementary
23 or secondary school, community college, area education agency,
24 or postsecondary college or university and their governing
25 boards.

26 d. "Employee" means an individual who is employed in
27 this state for wages by an employer. "Employee" includes an
28 applicant for employment.

29 e. "Employer" means a person, as defined in chapter 4, who
30 in this state employs for wages a natural person.

31 ~~b.~~ f. "Governmental entity" means the state or any
32 political subdivision of the state that owns, leases, or
33 operates buildings under the control of the state or a
34 political subdivision of the state, but does not include a
35 health care facility as defined in section 686D.2.

1 Sec. 17. CODE EDITOR DIRECTIVE. The Code editor shall
2 amend the title of chapter 27C, Code 2022, to read "PROOF OF
3 VACCINATION — IMMUNIZATION STATUS — COVID-19".

4 Sec. 18. EFFECTIVE DATE. This division of this Act, being
5 deemed of immediate importance, takes effect upon enactment.>

6 2. Title page, by striking lines 1 and 2 and inserting
7 <An Act relating to matters under the purview of the state,
8 including unemployment benefits, civil torts, COVID-19 proof of
9 vaccination-immunization status, and including effective date
10 provisions.>>

BOUSSELOT of Polk