

Senate File 228 - Enrolled

Senate File 228

AN ACT

**RELATING TO TORT LIABILITY, INCLUDING EMPLOYER LIABILITY
AND DAMAGES IN CIVIL ACTIONS INVOLVING COMMERCIAL MOTOR
VEHICLES.**

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 668.12A No liability for negligent hiring in actions involving commercial motor vehicles.

1. In any civil action involving the operation of a commercial motor vehicle requiring a commercial driver's license, there shall not be civil liability for damages for an employer's negligent hiring of an employee if all of the following apply:

a. The employer complies with subsection 2.

b. The employee's actions that caused the claimant damage are within the course and scope of the employee's employment.

2. On motion of an employer who is a defendant in a civil action involving the operation of a commercial motor vehicle requiring a commercial driver's license, a trial court shall dismiss from the civil action any claim of the employer's direct negligence in hiring the employee driver, if the employer stipulates that at the time of the event that caused the damages that are the subject of the civil action all of the following are true:

a. The person whose negligence is alleged to have caused the damages was the employer's employee.

b. The person whose negligence is alleged to have caused the damages was acting within the course and scope of employment with the employer.

3. If an employer makes the stipulations in subsection 2 with respect to an employee, and the employee's negligence is found to have caused or contributed to causing the damages, the employer's liability for negligent hiring shall be adjudged solely on the basis of respondeat superior.

4. As used in this section:

a. "*Commercial motor vehicle*" means as defined in section 321.1, subsection 11, paragraph "f", subparagraphs (1), (2), and (4), and also includes a glider kit vehicle as defined in section 321.1, subsection 28A; a road tractor as defined in section 321.1, subsection 64A; a towing or recovery vehicle as defined in section 321.1, subsection 83A; and a truck tractor as defined in section 321.1, subsection 88.

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

Sec. 2. NEW SECTION. 668.15A Noneconomic damages — commercial motor vehicle owners or operators.

1. As used in this section:

a. "*Commercial motor vehicle*" means as defined in section 321.1, subsection 11, paragraph "f", subparagraphs (1), (2), and (4), and also includes a glider kit vehicle as defined in section 321.1, subsection 28A; a road tractor as defined in section 321.1, subsection 64A; a towing or recovery vehicle as defined in section 321.1, subsection 83A; and a truck tractor as defined in section 321.1, subsection 88.

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

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

d. "*Operation*" means actual physical control of a commercial motor vehicle upon a highway as defined in section 321.1.

2. The total amount recoverable per plaintiff against the

owner or operator of a commercial motor vehicle for noneconomic damages for personal injury or death in a civil action involving the operation of a commercial motor vehicle requiring a commercial driver's license, whether in tort or otherwise, is five million dollars. This limitation on damages applies regardless of the number of derivative claims or theories of liability in the civil action, subject to subsection 3.

3. Upon motion by any plaintiff in a civil action against the owner or operator of a commercial motor vehicle requiring a commercial driver's license and prior to entry of judgment by the trial court, the trial court shall not apply the limitation on damages set forth in subsection 2 if the trial court finds, by a preponderance of the evidence, that the negligent act leading to the plaintiff's claimed harm involved any of the following:

a. Operating a commercial motor vehicle with an alcohol concentration, as defined in section 321J.1, of .04 or more.

b. Operating a commercial motor vehicle under the influence of a drug.

c. A refusal to submit to chemical testing required under chapter 321J.

d. A felony involving the use of a motor vehicle.

e. The use of a commercial motor vehicle involving the manufacturing, distributing, or dispensing of a controlled substance as defined in section 124.101; not including the lawful transport for hire of a controlled substance.

f. Knowingly operating a commercial motor vehicle without a proper license, or while the person's commercial driver's license is revoked, suspended, or canceled, or while the person is otherwise disqualified from operating a commercial motor vehicle.

g. Operating a commercial motor vehicle without the possession of a commercial driver's license or commercial learner's permit valid for the vehicle operated.

h. Operating a commercial motor vehicle involving an act or practice of human trafficking as defined in section 710A.1.

i. Reckless driving, as described in section 321.277.

j. Use of an electronic communication device while driving, as described in section 321.276.

k. Speeding fifteen miles per hour or more over the legal speed limit.

l. Violating any state or local law or ordinance restricting or prohibiting the use of a mobile telephone, computer, tablet, or other device that is not a part of the vehicle while operating the vehicle.

4. a. The limitation on damages set forth in subsection 2 does not apply to any case involving operation of a vehicle that does not require a commercial driver's license.

b. The limitation on damages set forth in subsection 2 does not apply to a civil action involving the operation of a commercial motor vehicle serving as a common carrier of passengers, or a commercial motor vehicle that is primarily engaged in transporting passengers, or a commercial motor vehicle as defined in section 321.1, subsection 11, paragraph "f", subparagraph (3); commercial vehicle as defined in section 321.1, subsection 12, paragraph "c"; school bus as defined in section 321.1, subsection 69; or other passenger transport.

5. The limitation on damages set forth in subsection 2 shall be adjusted for inflation by the secretary of state on January 1, 2028, and on January 1 of each even-numbered year thereafter. The secretary of state shall certify and publish the adjusted limitation on damages within fourteen days after the appropriate information is available.

Sec. 3. Section 668A.1, subsection 2, paragraphs a and b, Code 2023, as amended by 2023 Iowa Acts, House File 161, section 4, are amended to read as follows:

a. If the answer or finding pursuant to [subsection 1](#), paragraph "b", is affirmative, or if the claim is against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, or if the claim is part of a civil action involving the operation of a commercial motor vehicle, then the full amount of the punitive or exemplary damages awarded shall be paid to the claimant.

b. If the answer or finding pursuant to [subsection 1](#), paragraph "b", is negative, and if the claim is not against

any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, and if the claim is not part of a civil action involving the operation of a commercial motor vehicle, then after payment of all applicable costs and fees, an amount not to exceed twenty-five percent of the punitive or exemplary damages awarded may be ordered paid to the claimant, with the remainder of the award to be ordered paid into a civil reparations trust fund administered by the state court administrator. Funds placed in the civil reparations trust shall be under the control and supervision of the executive council, and shall be disbursed only for purposes of indigent civil litigation programs or insurance assistance programs.

AMY SINCLAIR

President of the Senate

PAT GRASSLEY

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 228, Ninetieth General Assembly.

W. CHARLES SMITHSON

Secretary of the Senate

Approved _____, 2023

KIM REYNOLDS

Governor