

for Senate, S. L. R. 5/11/91, 1791

FILED MAY 11 1991

SENATE FILE 550
BY HUTCHINS and RIFE

Passed Senate, Date 5/11/91 (S 1791) Passed House, Date 5/11/91 (H 2512)
Vote: Ayes 45 Nays 3 Vote: Ayes 60 Nays 2
Approved May 28, 1991

(Amended Senate no emergency)
By House 5/11/91 (H 1512)
47-0 A BILL FOR

1 An Act relating to transportation provided by motor carriers.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 550

H-4133

- 1 Amend Senate File 550 as passed by the Senate, as
- 2 follows:
- 3 1. Page 2, line 11, by inserting after the word
- 4 "premiums." the following: "A motor carrier shall
- 5 require the owner-operator to provide and maintain a
- 6 certificate of workers' compensation insurance
- 7 covering the owner-operator's employees."
- 8 2. Page 2, line 11, by striking the words
- 9 "However, an" and inserting the following: "An".
- 10 3. By striking page 2, line 29 through page 4,
- 11 line 31.

By COMMITTEE ON TRANSPORTATION
KOENIGS of Mitchell, Chairperson

H-4133 FILED MAY 11, 1991
ADOPTED (S 2377)

HOUSE AMENDMENT TO
SENATE FILE 550

S-3779

- 1 Amend Senate File 550 as passed by the Senate, as
- 2 follows:
- 3 1. Page 2, line 11, by inserting after the word
- 4 "premiums." the following: "A motor carrier shall
- 5 require the owner-operator to provide and maintain a
- 6 certificate of workers' compensation insurance
- 7 covering the owner-operator's employees."
- 8 2. Page 2, line 11, by striking the words
- 9 "However, an" and inserting the following: "An".
- 10 3. By striking page 2, line 29 through page 4,
- 11 line 31.

RECEIVED FROM THE HOUSE

S-3779 FILED MAY 11, 1991
CONCURRED (H 1512)

1791
550

1 Section 1. Section 85.61, subsection 13, paragraph c, Code
2 1991, is amended to read as follows:

3 c. An owner-operator who, as an individual or partner, or
4 shareholder of a corporate owner-operator, owns a vehicle
5 licensed and registered as a truck, road tractor, or truck
6 tractor by a governmental agency, is an independent contractor
7 while performing services in the operation of the owner-
8 operator's vehicle if all of the following conditions are
9 substantially present:

10 (1) The owner-operator is responsible for the maintenance
11 of the vehicle.

12 (2) The owner-operator bears the principal burden of the
13 vehicle's operating costs, including fuel, repairs, supplies,
14 collision insurance, and personal expenses for the operator
15 while on the road.

16 (3) The owner-operator is responsible for supplying the
17 necessary personnel to operate the vehicle, and the personnel
18 are considered the owner-operator's employees.

19 (4) The owner-operator's compensation is based on factors
20 related to the work performed, including a percentage of any
21 schedule of rates or lawfully published tariff, and not on the
22 basis of the hours or time expended.

23 (5) The owner-operator determines the details and means of
24 performing the services, in conformance with regulatory
25 requirements, operating procedures of the carrier, and
26 specifications of the shipper.

27 (6) The owner-operator enters into a contract which
28 specifies the relationship to be that of an independent
29 contractor and not that of an employee ~~and requires the owner-~~
30 ~~operator to provide and maintain a certificate of workers'~~
31 ~~compensation insurance with the carrier.~~

32 Sec. 2. Section 87.1, Code 1991, is amended to read as
33 follows:

34 87.1 INSURANCE OF LIABILITY REQUIRED.

35 Every employer subject to the provisions of this and

1 chapters 85 and 36, unless relieved therefrom as hereinafter
2 provided, shall insure the employer's liability thereunder in
3 some corporation, association, or organization approved by the
4 commissioner of insurance.

5 A motor carrier who contracts with an owner-operator who is
6 acting as an independent contractor pursuant to section 85.61,
7 subsection 13, shall not be required to insure the motor
8 carrier's liability for the owner-operator. A motor carrier
9 may procure compensation liability insurance coverage for
10 these owner-operators, and may charge the owner-operator for
11 the costs of the premiums. However, an owner-operator shall
12 remain responsible for providing compensation liability
13 insurance for the owner-operator's employees.

14 Every such employer shall exhibit, on demand of the
15 industrial commissioner, evidence of the employer's compliance
16 with this section; and if such employer refuses, or neglects
17 to comply with this section, the employer shall be liable in
18 case of injury to any worker in the employer's employ under
19 the common law as modified by statute.

20 Sec. 3. NEW SECTION. 87.23 COMPENSATION LIABILITY
21 INSURANCE NOT REQUIRED.

22 A corporation, association, or organization approved by the
23 commissioner of insurance to provide compensation liability
24 insurance shall not require a motor carrier that contracts
25 with an owner-operator who is acting as an independent
26 contractor pursuant to section 85.61, subsection 13, to
27 purchase compensation liability insurance for the employer's
28 liability for the owner-operator or its employees.

29 Sec. 4. Section 123.45, unnumbered paragraph 2, Code 1991,
30 is amended to read as follows:

31 A person engaged in the business of manufacturing,
32 bottling, or wholesaling alcoholic beverages, wine, or beer,
33 or any jobber, representative, broker, employee, or agent of
34 such person, shall not directly or indirectly supply, furnish,
35 give, or pay for any furnishings, fixtures, or equipment used

1 in the storage, handling, serving, or dispensing of alcoholic
2 beverages, wine, beer, or food within the place of business of
3 a licensee or permittee authorized under this chapter to sell
4 at retail; nor shall the person directly or indirectly extend
5 any credit for alcoholic beverages or beer or pay for any such
6 license or permit, nor directly or indirectly be interested in
7 the ownership, conduct, or operation of the business of
8 another licensee or permittee authorized under this chapter to
9 sell at retail, nor hold a retail liquor control license or
10 retail wine or beer permit, except that a person engaged in
11 the business of manufacturing beer may rent motor vehicle
12 equipment or mobile trailers which contain equipment to
13 dispense draft beer in the manner provided under section
14 123.45A or may sell beer at retail for consumption on or off
15 the premises of the manufacturing facility and,
16 notwithstanding any other provision of this chapter or the
17 fact that such a person may be the holder of a class "A" beer
18 permit, may be granted not more than one class "B" permit as
19 defined in section 123.124 for such purpose. Any licensee or
20 permittee who permits or assents to or is a party in any way
21 to any such violation or infringement of this section is
22 guilty of a violation of this section.

23 Sec. 5. NEW SECTION. 123.45A RENTING OF EQUIPMENT OR
24 TRAILERS FOR DISPENSING OF BEER -- PERMISSIBLE VENDORS --
25 RESTRICTIONS.

26 1. A person engaged in the business of wholesaling beer
27 may rent motor vehicle equipment or mobile trailers which
28 contain equipment to dispense draft beer to a nonprofit
29 organization or organization which qualifies for federal tax-
30 exempt status, if the organization possesses or holds a
31 fourteen-day temporary or seasonal liquor control license or
32 beer permit issued under section 123.34.

33 2. A person who rents motor vehicle equipment or mobile
34 trailers which contain equipment to dispense draft beer to a
35 qualified organization under this section shall charge a fair

1 market rental fee for the use of the equipment in an amount
2 which shall not exceed the amount prescribed by rules adopted
3 by the alcoholic beverages division for equipment or mobile
4 trailer rental under this section. A person renting equipment
5 or mobile trailers under this section shall not make any
6 agreement, in connection with the use of the equipment or
7 mobile trailer by the qualified organization, which limits,
8 restricts, or excludes any brand of beer from being used
9 during the period of the equipment or mobile trailer rental.
10 A person renting equipment or mobile trailers under this
11 section shall not prevent a qualified organization, which
12 rents equipment or mobile trailers from the person, from
13 adapting beer lines or connectors on the dispensing equipment
14 rented by the organization for the use of products which are
15 sold by persons who are in competition with the person renting
16 the equipment or mobile trailers to the organization.

17 3. A person who rents motor vehicle equipment or mobile
18 trailers which contain equipment for the dispensing of draft
19 beer under this section shall register each piece of equipment
20 and any mobile trailers which contain any equipment with the
21 alcoholic beverages division and pay an annual registration
22 fee for each item in the amount of fifty dollars. The
23 registration receipt for each piece of equipment shall be
24 affixed to and prominently displayed on the exterior of the
25 equipment. All registration receipts shall clearly display
26 the expiration date of the registration.

27 4. The alcoholic beverages division shall adopt rules
28 which set a fair rental value schedule for equipment and
29 mobile trailers rented pursuant to this section. The rental
30 value shall be based on the size or description of the types
31 of equipment which may be rented under this section.

32 EXPLANATION

33 Sections 1, 2, and 3 of the bill include shareholders of
34 corporate owner-operators of a vehicle licensed and registered
35 as a truck, road tractor, or truck tractor within the

1 independent contractor exception pertaining to workers'
2 compensation liability insurance, and remove the requirement
3 that an owner-operator must maintain a certificate of workers'
4 compensation insurance to meet independent contractor
5 requirements. The changes also specify that a motor carrier
6 who contracts with an owner-operator who is acting as an
7 independent contractor is not required to insure the carrier's
8 liability for the owner-operator, but may procure coverage and
9 charge the owner-operator for the premiums.

10 Sections 4 and 5 permit wholesalers of beer to rent
11 equipment or mobile trailers to nonprofit or certain tax-
12 exempt organizations, who hold an appropriate permit or
13 license, for the temporary dispensing of draft beer. The
14 wholesalers are not permitted to condition rental of the
15 equipment or trailers on the organization only using certain
16 kinds or brands of beer and cannot prevent an organization
17 which rents the equipment or trailers from making adaptations
18 to the dispensing equipment or connectors, that would permit
19 the dispensing of a brand of beer produced by the wholesaler's
20 competitor. Wholesalers who engage in the rental of equipment
21 or trailers under this bill may charge fair rental value for
22 use of the equipment or trailers, in an amount which cannot
23 exceed a fair rental value amount determined by the alcoholic
24 beverages division, and must register and pay a fee for each
25 piece of equipment or trailer to be rented under the new
26 provision.

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SENATE FILE 550

AN ACT

RELATING TO TRANSPORTATION PROVIDED BY MOTOR CARRIERS.

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

Section 1. Section 85.61, subsection 13, paragraph c, Code 1991, is amended to read as follows:

c. An owner-operator who, as an individual or partner, or shareholder of a corporate owner-operator, owns a vehicle licensed and registered as a truck, road tractor, or truck tractor by a governmental agency, is an independent contractor while performing services in the operation of the owner-operator's vehicle if all of the following conditions are substantially present:

(1) The owner-operator is responsible for the maintenance of the vehicle.

(2) The owner-operator bears the principal burden of the vehicle's operating costs, including fuel, repairs, supplies, collision insurance, and personal expenses for the operator while on the road.

(3) The owner-operator is responsible for supplying the necessary personnel to operate the vehicle, and the personnel are considered the owner-operator's employees.

(4) The owner-operator's compensation is based on factors related to the work performed, including a percentage of any schedule of rates or lawfully published tariff, and not on the basis of the hours or time expended.

(5) The owner-operator determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier, and specifications of the shipper.

(6) The owner-operator enters into a contract which specifies the relationship to be that of an independent

contractor and not that of an employee and requires the owner-operator to provide and maintain a certificate of workers' compensation insurance with the carrier.

Sec. 2. Section 87.1, Code 1991, is amended to read as follows:

87.1. INSURANCE OF LIABILITY REQUIRED.

Every employer subject to the provisions of this and chapters 85 and 86, unless relieved therefrom as hereinafter provided, shall insure the employer's liability thereunder in some corporation, association, or organization approved by the commissioner of insurance.

A motor carrier who contracts with an owner-operator who is acting as an independent contractor pursuant to section 85.61, subsection 13, shall not be required to insure the motor carrier's liability for the owner-operator. A motor carrier may procure compensation liability insurance coverage for these owner-operators, and may charge the owner-operator for the costs of the premiums. A motor carrier shall require the owner-operator to provide and maintain a certificate of workers' compensation insurance covering the owner-operator's employees. An owner-operator shall remain responsible for providing compensation liability insurance for the owner-operator's employees.

Every such employer shall exhibit, on demand of the industrial commissioner, evidence of the employer's compliance with this section; and if such employer refuses, or neglects to comply with this section, the employer shall be liable in case of injury to any worker in the employer's employ under the common law as modified by statute.

Sec. 3. NEW SECTION. 87.23. COMPENSATION LIABILITY INSURANCE NOT REQUIRED

A corporation, association, or organization approved by the commissioner of insurance to provide compensation liability insurance shall not require a motor carrier that contracts with an owner-operator who is acting as an independent

contractor pursuant to section 85.61, subsection 13, to purchase compensation liability insurance for the employer's liability for the owner-operator or its employees.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 550, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 28, 1991

TERRY E. BRANSTAD
Governor