

House Study Bill 124 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON CARLSON)

A BILL FOR

1 An Act concerning matters relating to the transportation of
2 railroad workers, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 327F.39, subsection 1, Code 2017, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. *00e.* "Employee", when used in connection
4 with the transportation of railroad workers, means a driver
5 who performs a service for the railroad worker transportation
6 company, either for wages or as an independent contractor.

7 NEW PARAGRAPH. *00e.* "Employer", when used in connection
8 with the transportation of railroad workers, means a railroad
9 worker transportation company.

10 Sec. 2. Section 327F.39, subsection 1, paragraph h, Code
11 2017, is amended to read as follows:

12 *h.* "Railroad worker transportation company" means a person,
13 other than a railroad ~~corporation~~ company, organized for the
14 purpose of or engaged in the business of transporting, for
15 hire, railroad workers to or from their places of employment or
16 in the course of their employment in motor vehicles designed
17 to carry ~~seven or more persons but~~ fewer than sixteen persons
18 including the driver.

19 Sec. 3. Section 327F.39, subsection 3, Code 2017, is
20 amended by adding the following new paragraphs after unnumbered
21 paragraph 1:

22 NEW PARAGRAPH. *a.* An employer who owns or operates a
23 motor vehicle for the transportation of railroad workers
24 shall inspect the motor vehicle or cause the motor vehicle to
25 be inspected annually in compliance with 49 C.F.R. §396.17,
26 as amended, by a person qualified to perform the inspection
27 as provided in 49 C.F.R. §396.19, as amended. In addition,
28 the employer shall require each employee who drives a motor
29 vehicle for the transportation of railroad workers to complete
30 a written daily report as provided in 49 C.F.R. §396.11, as
31 amended.

32 NEW PARAGRAPH. *b.* An employer shall establish a maintenance
33 and repair program that provides for inspection of each motor
34 vehicle operated by its employees for the transportation of
35 railroad workers prior to the first service of the vehicle

1 and at each twenty-five-thousand-mile interval thereafter,
2 to assure overall cleanliness of the vehicle, that parts and
3 accessories are in safe and operable condition, and that the
4 vehicle is equipped with all of the following in good repair:

5 (1) Tires with sufficient tread as prescribed in 49 C.F.R.
6 §393.75, as amended.

7 (2) A fully inflated spare tire.

8 (3) A secure location for personal baggage, including
9 proper baggage restraints.

10 (4) Fully operational seatbelts for all passenger seats.

11 (5) A heater and air conditioner that are properly working
12 with properly working fans.

13 (6) An emergency road kit that contains, at a minimum,
14 flares or reflective triangles, a fire extinguisher, and a
15 readily available first aid kit in compliance with 29 C.F.R.
16 §1910.151, as amended, which includes the articles described
17 in appendix A of that section.

18 NEW PARAGRAPH. *c.* The operator of a motor vehicle used
19 for the transportation of railroad workers shall activate the
20 vehicle's emergency signal lamps when the vehicle is stopped
21 on or near the roadway.

22 NEW PARAGRAPH. *d.* A motor vehicle used for the
23 transportation of railroad workers shall not be operated in a
24 condition that is likely to cause an accident or a mechanical
25 breakdown.

26 NEW PARAGRAPH. *e.* An employer shall maintain records
27 relating to the maintenance and repair program for each motor
28 vehicle operated by its employees for the transportation of
29 railroad workers. The records shall include:

30 (1) Identifying information for the motor vehicle,
31 including the vehicle identification number; make, model, and
32 year of manufacture; and the railroad company's identification
33 number if provided.

34 (2) Owner information if the employer is not the owner of
35 the vehicle.

1 (3) The history of inspections, repairs, and maintenance
2 that describes each activity and the date the activity was
3 performed.

4 NEW PARAGRAPH. *f.* Records required under this section shall
5 be maintained by an employer at its principal place of business
6 for one year. If a motor vehicle leaves the employer's
7 control, the records pertaining to that vehicle shall be
8 maintained by the employer at the employer's principal place of
9 business for six months.

10 NEW PARAGRAPH. *g.* An employer and the employer's officers,
11 agents, and employees who are involved with the inspection or
12 maintenance of motor vehicles shall comply with the employer's
13 maintenance and repair program as provided under this section.

14 NEW PARAGRAPH. *h.* A motor vehicle used by a railroad worker
15 transportation company to transport railroad workers shall have
16 signage on each side and on the rear of the vehicle containing
17 the words "railroad worker transportation company" in letters
18 no smaller than one inch in height.

19 Sec. 4. Section 327F.39, Code 2017, is amended by adding the
20 following new subsections:

21 NEW SUBSECTION. 5A. *Driver qualifications.*

22 *a.* An employer shall maintain a driver qualification
23 file for each employee who drives a motor vehicle for the
24 transportation of railroad workers. The driver qualification
25 file shall include all of the following:

26 (1) A certificate of physical examination signed and dated
27 within the previous two years by a physician licensed under
28 chapter 148 certifying that the employee is physically able to
29 operate a motor vehicle.

30 (2) Documentation that the employer has reviewed the
31 driver's driving record within the previous twelve months.

32 (3) Documentation relating to the driver's violation of any
33 applicable motor vehicle laws or ordinances.

34 (4) Other documentation related to the driver's
35 qualification or ability to drive a motor vehicle.

1 (5) The driver's application for employment as provided by
2 49 C.F.R. §391.21, as amended.

3 (6) References from previous employers, if required by the
4 current employer.

5 (7) A copy of the driver's current class D driver's license
6 or an equivalent driver's license.

7 *b.* A person shall be disqualified from driving for an
8 employer if the driver is convicted of two or more serious
9 traffic violations committed within a three-year period in this
10 state or another state. For purposes of this section, "*serious*
11 *traffic violation*" means any violation committed while operating
12 a motor vehicle if the violation resulted in the suspension
13 or revocation of the person's driver's license, or any of the
14 following violations, whether or not the violation resulted in
15 license suspension or revocation:

16 (1) A violation of chapter 321J or an equivalent law of
17 another state.

18 (2) A seat belt violation.

19 (3) A violation of commercial motor vehicle laws.

20 (4) A speeding violation for a speed of fifteen miles per
21 hour or more over the legal limit.

22 (5) Negligent homicide.

23 (6) Using a motor vehicle in the commission of a felony.

24 (7) Evading arrest.

25 (8) Using a motor vehicle to flee law enforcement.

26 (9) Careless driving.

27 (10) Prohibited passing of another vehicle.

28 (11) Unlawfully passing a stopped school bus.

29 (12) Failure to obey an official traffic-control signal or
30 device.

31 (13) Failure to obey a railroad crossing gate.

32 (14) Driving while the person's driver's license or
33 operating privileges are suspended, canceled, or revoked.

34 (15) Driving the wrong way on a one-way street.

35 *c.* Prior to allowing a person to perform the duties of

1 a driver, an employer shall require the person to submit to
2 testing for alcohol and controlled substances as provided in
3 49 C.F.R. pts. 40 and 382, as amended. A person shall not be
4 allowed to perform the duties of a driver unless the alcohol
5 test result for the person indicates an alcohol concentration
6 of zero and the controlled substances test result from a
7 medical review officer, as discussed in 49 C.F.R. §40.3, as
8 amended, indicates a verified negative.

9 d. (1) As soon as practicable following an accident
10 involving a motor vehicle owned or operated by an employer,
11 the employer shall test each surviving driver for alcohol and
12 controlled substances if any of the following apply:

13 (a) The accident involved the death of a person.

14 (b) The driver received a citation for a moving violation
15 arising from the accident and the accident involved bodily
16 injury to a person who immediately received medical treatment
17 after the accident.

18 (c) The driver received a citation for a moving violation
19 arising from the accident and the accident involved disabling
20 damage to one or more motor vehicles involved in the accident.

21 (2) Testing for the presence of alcohol shall be conducted
22 immediately following the accident or no later than eight hours
23 after the accident. Testing for the presence of controlled
24 substances shall be conducted immediately following the
25 accident or no later than thirty-two hours after the accident.
26 The test results shall be submitted to the department. The
27 employer shall maintain a record of the test results for five
28 years following the date of the accident.

29 e. Notwithstanding any other provision, a person shall be
30 disqualified from driving for the employer upon the occurrence
31 of any of the following:

32 (1) The person's alcohol and controlled substances test
33 results are not in compliance with paragraph "c".

34 (2) The person refuses to provide a specimen for alcohol
35 testing, testing for controlled substances, or both.

1 (3) The person submits an adulterated specimen, a dilute
2 positive specimen, or a substituted specimen for an alcohol
3 test or a test for controlled substances.

4 f. Testing of an employee for the presence of alcohol or a
5 controlled substance under this subsection shall be performed
6 in accordance with section 730.5.

7 NEW SUBSECTION. 5B. *Financial liability coverage.*

8 a. An employer shall maintain financial liability coverage
9 in the amount of five hundred thousand dollars per person,
10 up to a maximum of three million dollars, for each motor
11 vehicle owned or operated by the employer to transport railroad
12 workers.

13 b. An employer shall maintain uninsured and underinsured
14 motor vehicle coverage in the amount of five hundred thousand
15 dollars per motor vehicle occupant, up to a maximum of three
16 million dollars, for each motor vehicle owned or operated by
17 the employer to transport railroad workers.

18 Sec. 5. Section 327F.39, subsection 6, Code 2017, is amended
19 to read as follows:

20 6. ~~Rule violations~~ Violations. When the administrator
21 finds that a motor vehicle used to transport workers to and
22 from their places of employment or during the course of their
23 employment ~~violates~~ is not in compliance with this section or a
24 rule adopted under this section, the administrator shall make,
25 enter, and serve upon the owner of the motor vehicle an order
26 as necessary to protect the safety of workers transported in
27 the motor vehicle. The administrator may direct in the order,
28 as a condition to the continued use of the motor vehicle for
29 transporting workers to and from their places of employment or
30 during the course of their employment, that additions, repairs,
31 improvements, or changes be made and that safety devices and
32 safeguards be furnished and used as required to satisfy the
33 rules in the manner and within the time specified in the order.
34 The order may also require that any driver of the motor vehicle
35 satisfy the minimum standards for a driver under ~~the~~ this

1 section or rules adopted under this section.

2 Sec. 6. Section 327F.39, Code 2017, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 6A. *Access provided to department.* An
5 employer shall provide the department, or an agent or employee
6 of the department, with access to the following:

7 a. A facility owned or controlled by the employer, for the
8 purpose of determining compliance with this section.

9 b. Records related to an accident involving a vehicle owned
10 or operated by the employer.

11 Sec. 7. Section 327F.39, subsection 7, Code 2017, is amended
12 to read as follows:

13 7. *Penalty.*

14 a. Violation Except as otherwise provided in this
15 subsection, a violation by the owner of a motor vehicle of this
16 section, a rule adopted under [this section](#), or an order issued
17 under [subsection 6](#), or willful failure to comply with such an
18 order is, upon conviction, subject to a schedule "one" penalty
19 as provided under [section 327C.5](#).

20 b. A violation of [subsection 5](#) or rules adopted pursuant
21 to [subsection 5](#) by a railroad worker transportation company or
22 a railroad company is punishable as a schedule "one" penalty
23 under [section 327C.5](#).

24 c. A railroad worker transportation company or a railroad
25 company that violates this section or a rule adopted pursuant
26 to this section may be subject to a civil penalty not to exceed
27 two thousand dollars in addition to any other penalty provided
28 by law.

29 d. Each violation of this section or a rule adopted pursuant
30 to this section constitutes a separate and distinct offense,
31 and for violations of a continuing nature, each day that a
32 violation continues constitutes a separate offense.

33

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill contains provisions relating to companies
2 that operate motor vehicles and employ drivers for the
3 transportation of railroad workers.

4 Under the bill, the term "employer" means a railroad worker
5 transportation company. The term "employee" refers to a driver
6 who performs a service for a railroad worker transportation
7 company, either for wages or as an independent contractor.

8 The bill requires an employer to provide for annual
9 inspection of the employer's motor vehicles by a qualified
10 person. In addition, each employee who drives a motor vehicle
11 must complete a daily written vehicle report. An employer is
12 also required to establish a maintenance and repair program
13 that includes inspection of each motor vehicle prior to the
14 first service of the vehicle and at each 25,000-mile interval
15 thereafter, with such inspections focusing on cleanliness and
16 the condition of vehicle parts and accessories specified in the
17 bill. An employer is required to maintain records relating to
18 vehicle maintenance and repair for one year, or for a vehicle
19 no longer in the employer's control, for six months. The bill
20 further requires a motor vehicle used by a railroad worker
21 transportation company to transport railroad workers to have
22 signage on each side and on the rear of the vehicle containing
23 the words "railroad worker transportation company" in letters
24 no smaller than one inch in height.

25 The bill requires an employer to maintain a driver
26 qualification file for each employee that includes specified
27 documentation relating to the employee's driving record
28 and employment record. The bill states that an employee
29 is disqualified from driving for an employer if the driver
30 is convicted of two or more serious traffic violations
31 committed within three years in Iowa or in any other state.
32 For purposes of the bill, "serious traffic violation" means
33 any violation committed while operating a motor vehicle if
34 the violation resulted in suspension or revocation of the
35 person's driver's license, or the following violations,

1 whether or not the violation resulted in license suspension
2 or revocation: operating while intoxicated, a seat belt
3 violation, a violation of commercial motor vehicle laws,
4 speeding more than 15 miles per hour over the limit, negligent
5 homicide, using a motor vehicle in commission of a felony,
6 evading arrest, using a motor vehicle to flee law enforcement,
7 careless driving, prohibited passing, unlawfully passing a
8 school bus, failure to obey a traffic control signal or device,
9 driving while suspended, and driving the wrong way on a one-way
10 street.

11 The bill requires drivers to be tested for the presence of
12 alcohol and controlled substances as a condition of employment.
13 In addition, an employer is required to have a driver tested
14 for alcohol and controlled substances following an accident
15 occurring in the course of the driver's employment if the
16 accident involved the death of a person, or if the accident
17 resulted in bodily injury to a person or disabling damage to a
18 motor vehicle and the driver received a citation for a moving
19 violation. Grounds for disqualification of a driver include
20 a test result indicating an alcohol concentration above zero
21 or a controlled substance test result other than a verified
22 negative; refusing to provide a specimen for testing; or
23 adulteration, dilution, or substitution of a specimen.

24 The bill requires an employer to maintain financial
25 liability coverage in the amount of \$500,000 per person, up to
26 a maximum of \$3 million per motor vehicle owned or operated by
27 the employer, and uninsured or underinsured motorist coverage
28 in the amount of \$500,000 per motor vehicle occupant, up to a
29 maximum of \$3 million per motor vehicle.

30 The bill requires an employer to provide the department of
31 transportation with access to the employer's facilities and to
32 records relating to accidents involving the employer's motor
33 vehicles.

34 Pursuant to current law, a violation of the provisions
35 relating to the transportation of railroad workers is

1 punishable by a schedule "one" penalty, which is a fine of
2 \$100. The bill allows an additional civil penalty of up to
3 \$2,000 to be imposed for any violation of the provisions of the
4 bill by a railroad company or a railroad worker transportation
5 company. Each violation of the provisions relating to the
6 transportation of railroad workers constitutes a separate and
7 distinct offense, and for violations of a continuing nature,
8 each day that a violation continues constitutes a separate
9 offense.