

House File 382 - Introduced

HOUSE FILE 382

BY M. SMITH, HUNTER, KURTZ,
STAED, ANDERSON, McCONKEY,
THEDE, DONAHUE, HEDDENS,
BEARINGER, GASKILL, and
ISENHART

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 2019, 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 2019, 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 2019, 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 shall
24 inspect the motor vehicle or cause the motor vehicle to be
25 inspected annually in compliance with 49 C.F.R. §396.17, by a
26 person qualified to perform the inspection as provided in 49
27 C.F.R. §396.19. In addition, the employer shall require each
28 employee who drives a motor vehicle for the transportation of
29 railroad workers to complete a written daily report as provided
30 in 49 C.F.R. §396.11.

31 NEW PARAGRAPH. *b.* An employer shall establish a maintenance
32 and repair program that provides for inspection of each motor
33 vehicle operated by its employees for the transportation of
34 railroad workers prior to the first service of the vehicle
35 and at each twenty-five-thousand-mile interval thereafter,

1 to assure overall cleanliness of the vehicle, that parts and
2 accessories are in safe and operable condition, and that the
3 vehicle is equipped with all of the following in good repair:

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

6 (2) A fully inflated spare tire.

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

9 (4) Fully operational safety belts or safety harnesses for
10 all passenger seats.

11 (5) A heater and air conditioner that are properly working,
12 including 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, which includes the articles described in appendix
17 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
29 of railroad workers. The records shall include all of the
30 following:

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

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

1 the vehicle.

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

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

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

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

21 Sec. 4. Section 327F.39, Code 2019, is amended by adding the
22 following new subsections:

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

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

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

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

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

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

3 (5) The driver's application for employment as provided by
4 49 C.F.R. §391.21.

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

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

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

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

20 (2) A safety belt or safety harness violation.

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

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

24 (5) Negligent homicide.

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

26 (7) Evading arrest.

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

28 (9) Careless driving.

29 (10) Prohibited passing of another vehicle.

30 (11) Unlawfully passing a stopped school bus.

31 (12) Failure to obey an official traffic-control signal or
32 device.

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

34 (14) Driving while the person's driver's license or
35 operating privilege is suspended, canceled, revoked, denied,

1 or barred.

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

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

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

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

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

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

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

32 e. A person shall be disqualified from driving for the
33 employer upon the occurrence of any of the following:

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

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

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

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

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

10 *a.* An employer shall maintain financial liability coverage
11 in the amount of five hundred thousand dollars because of
12 bodily injury to or death of one person in any one accident,
13 and subject to the limit for one person, three million dollars
14 because of bodily injury to or death of two or more persons in
15 any one accident, for each motor vehicle owned or operated by
16 the employer to transport railroad workers.

17 *b.* An employer shall maintain uninsured, underinsured, and
18 hit-and-run motor vehicle coverage in the amounts specified in
19 paragraph "a", for each motor vehicle owned or operated by the
20 employer to transport railroad workers.

21 Sec. 5. Section 327F.39, subsection 6, Code 2019, is amended
22 to read as follows:

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

1 rules in the manner and within the time specified in the order.
2 The order may also require that any driver of the motor vehicle
3 satisfy the minimum standards for a driver under ~~the~~ this
4 section or rules adopted under this section.

5 Sec. 6. Section 327F.39, Code 2019, is amended by adding the
6 following new subsection:

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

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

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

14 Sec. 7. Section 327F.39, subsection 7, Code 2019, is amended
15 to read as follows:

16 7. *Penalty.*

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

23 b. A violation of subsection 5 or rules adopted pursuant
24 to subsection 5 by a railroad worker transportation company or
25 a railroad company is punishable as a schedule "one" penalty
26 under section 327C.5.

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

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

1

EXPLANATION

2

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

3

4 This bill relates to companies that operate motor vehicles
5 and employ drivers for the transportation of railroad workers.

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

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

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

1 resulted in suspension or revocation of the person's driver's
2 license, or certain violations specified in the bill, whether
3 or not the violation resulted in license suspension or
4 revocation.

5 The bill requires drivers to be tested for the presence of
6 alcohol and controlled substances as a condition of employment.
7 In addition, an employer is required to have a driver tested
8 for alcohol and controlled substances following certain
9 accidents occurring in the course of the driver's employment.
10 Grounds for disqualification of a driver include a test result
11 indicating an alcohol concentration above zero or a controlled
12 substance test result other than a verified negative; refusing
13 to provide a specimen for testing; or adulteration, dilution,
14 or substitution of a specimen.

15 The bill requires an employer to maintain financial
16 liability coverage in the amount of \$500,000 per person, up to
17 a maximum of \$3 million per motor vehicle owned or operated
18 by the employer, and uninsured, underinsured, and hit-and-run
19 motorist coverage in the same amounts.

20 The bill requires an employer to provide the department of
21 transportation with access to the employer's facilities and to
22 records relating to accidents involving the employer's motor
23 vehicles.

24 Pursuant to current law, a violation of the provisions
25 relating to the transportation of railroad workers is
26 punishable by a schedule "one" penalty, which is a fine of
27 \$100. The bill allows an additional civil penalty of up
28 to \$2,000 to be imposed for any violation of the bill by a
29 railroad company or a railroad worker transportation company.
30 Each violation of the provisions relating to the transportation
31 of railroad workers constitutes a separate and distinct
32 offense, and for violations of a continuing nature, each day
33 that a violation continues constitutes a separate offense.