

**House Study Bill 217 - Introduced**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON COMMERCE BILL BY  
CHAIRPERSON LUNDGREN)

**A BILL FOR**

- 1 An Act relating to tort liability, including employer liability
  - 2 in actions arising from an employee's negligence, punitive
  - 3 or exemplary damages, and noneconomic damages available
  - 4 against operators of motor vehicles.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1       Section 1. NEW SECTION. 668.12A Liability for employee  
2 negligence.

3       1. In a civil action involving an employer, if the employer  
4 who is a defendant in the action complies with subsection 2,  
5 the employer's liability for damages caused by the negligence  
6 of an employee acting within the course and scope of employment  
7 shall be based solely on respondent superior and not on the  
8 employer's direct negligence in hiring, training, supervising,  
9 or trusting the employee, or other similar claim that the  
10 employer's negligence enabled the employee's harmful conduct.

11      2. On motion of an employer who is the defendant in the  
12 action, and notwithstanding section 671A.2, a trial court shall  
13 dismiss from the action any claim of the employer's direct  
14 negligence in hiring, training, supervising, or trusting an  
15 employee, or other claim of direct negligence on the part of  
16 the employer for the employee's harmful conduct, or other  
17 similar claims, if the employer stipulates that at the time  
18 of the event that caused the damages that are the subject of  
19 the action that the person whose negligence is alleged to have  
20 caused the damages was the employer's employee and was acting  
21 within the course and scope of employment with the employer.

22      3. If an employer makes the stipulations in subsection 2  
23 with respect to an employee, and the employee's negligence is  
24 found to have caused or contributed to causing the damages, the  
25 employer shall be adjudged vicariously liable for the resulting  
26 damages.

27      Sec. 2. NEW SECTION. 668.15A Noneconomic damages — motor  
28 vehicle operators.

29      1. As used in this section:

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

34      b. "*Occurrence*" means the event, incident, or happening,  
35 and the acts or omissions incident thereto, which proximately

1 caused injuries or damages for which recovery is claimed.  
2       2. The total amount recoverable in any civil action for  
3 noneconomic damages for personal injury or death, whether  
4 in tort, contract, or otherwise, against the operator of a  
5 motor vehicle shall be limited to seven hundred fifty thousand  
6 dollars, regardless of the number of plaintiffs, derivative  
7 claims, theories of liability, or defendants in the civil  
8 action.

9       Sec. 3. Section 668A.1, Code 2021, is amended by adding the  
10 following new subsection:

11       NEW SUBSECTION. 2A. A claim for punitive or exemplary  
12 damages shall not be included in any initial claim for relief.  
13 A claim for punitive or exemplary damages may be allowed by  
14 amendment to the pleadings only after the exchange of initial  
15 disclosures pursuant to rule 1.500(1) of the Iowa rules of  
16 civil procedure and after the plaintiff establishes prima facie  
17 proof of a triable issue. After the plaintiff establishes the  
18 existence of a triable issue, the court may, in its discretion  
19 and subject to subsection 3, allow discovery on the issue of  
20 punitive or exemplary damages as the court deems appropriate.

## **EXPLANATION**

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

24 This bill relates to tort liability, including employer  
25 liability for an employee's torts, noneconomic damages  
26 available against an operator of a motor vehicle, and pleading  
27 and discovery requirements related to punitive damages.

28 The bill provides that an employer's liability who is a  
29 defendant in a civil action for damages caused by negligence of  
30 an employee acting within the scope and course of employment  
31 shall be based on respondent superior. Upon motion of an  
32 employer, and notwithstanding Code section 671A.2 (limitations  
33 on liability protection for negligent hiring), a trial court  
34 shall dismiss from the action any claim of the employer's  
35 direct negligence in hiring, training, supervising, or trusting

1 an employee, or other claim of direct negligence on the part  
2 of the employer for the employee's harmful conduct, or other  
3 similar claims, if the employer stipulates that at the time  
4 of the event that caused the damages that the person whose  
5 negligence is the basis of the action is the employer's  
6 employee and the employee was acting within the course and  
7 scope of employment with the employer. If an employer makes  
8 the stipulation with respect to an employee, and the employee's  
9 negligence is found to have caused or contributed to causing  
10 the damages, the employer shall be adjudged vicariously liable  
11 for the resulting damages.

12 Under current law, an employer is liable for an employee's  
13 negligence and may be held responsible for direct negligence  
14 relating to hiring, training, supervising, trusting an  
15 employee, or other claims of direct negligence on part of the  
16 employee's harmful conduct, subject to certain limitations  
17 contained in Code chapter 671 (negligent hiring — limitations  
18 on liability).

19 The bill limits the amount of noneconomic damages available  
20 against the operator of a motor vehicle. The bill defines  
21 "noneconomic damages" to mean damages arising from pain,  
22 suffering, inconvenience, physical impairment, mental  
23 anguish, emotional pain and suffering, loss of chance, loss of  
24 consortium, or any other nonpecuniary damages and "occurrence"  
25 to mean the event, incident, or happening, and the acts or  
26 omissions incident thereto, which proximately caused injuries  
27 or damages for which recovery is claimed. The bill provides  
28 that the total amount recoverable in any civil action for  
29 noneconomic damages for personal injury or death against the  
30 operator of a motor vehicle shall be limited to \$750,000  
31 for any occurrence regardless of the number of plaintiffs,  
32 derivative claims, theories of liability, or defendants in  
33 the civil action. Under current law, noneconomic damages are  
34 unlimited except for suits under Code sections 123.92 (dramshop  
35 liability) and 147.136A (medical malpractice).

1       The bill provides that a claim for punitive or exemplary  
2 damages in an action governed by Code section 668A.1 shall  
3 not be included in any initial claim for relief. A claim for  
4 punitive or exemplary damages may be allowed by amendment to  
5 the pleadings only after the exchange of initial disclosures  
6 and after the plaintiff establishes prima facie proof of a  
7 triable issue. After the plaintiff establishes the existence  
8 of a triable issue of punitive or exemplary damages, the court  
9 may allow additional discovery on the issue of punitive or  
10 exemplary damages. Under current law and under the bill, the  
11 mere allegation or assertion of a claim for punitive damages  
12 cannot form the basis for discovery of the wealth or ability to  
13 respond in damages on behalf of the party from whom punitive  
14 damages are claimed until the claimant has established that  
15 sufficient admissible evidence exists to support a prima facie  
16 case establishing, by a preponderance of clear, convincing, and  
17 satisfactory evidence, that the conduct of the defendant from  
18 which the claim arose constituted willful and wanton disregard  
19 for the rights or safety of another.