

Senate Study Bill 1210 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

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.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 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 admissable 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.