

Senate Study Bill 1238 - 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 civil actions involving commercial motor vehicles and
3 arising from an employee's negligence, punitive or exemplary
4 damages, and noneconomic damages available against owners or
5 operators of commercial motor vehicles.

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

1 Section 1. NEW SECTION. 668.12A Liability for employee
2 negligence in actions involving commercial motor vehicles.

3 1. In a civil action involving a commercial motor vehicle
4 as defined in section 321.1, if an employer who is a defendant
5 in the action complies with subsection 2, the employer's
6 liability for damages caused by the negligence of an employee
7 acting within the course and scope of employment shall be based
8 solely on respondeat superior and not on the employer's direct
9 negligence in hiring, training, supervising, or trusting the
10 employee, or other similar claim that the employer's negligence
11 enabled the employee's harmful conduct.

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

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

29 Sec. 2. NEW SECTION. 668.15A Noneconomic damages —
30 commercial motor vehicle owners or operators.

31 1. As used in this section:

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

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

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

21 The bill limits the amount of noneconomic damages available
22 against the owner or operator of a commercial motor vehicle.
23 The bill defines "noneconomic damages" to mean damages arising
24 from pain, suffering, inconvenience, physical impairment,
25 mental anguish, emotional pain and suffering, loss of chance,
26 loss of consortium, or any other nonpecuniary damages and
27 "occurrence" to mean the event, incident, or happening, and
28 the acts or omissions incident thereto, which proximately
29 caused injuries or damages for which recovery is claimed. The
30 bill provides that the total amount recoverable in any civil
31 action for noneconomic damages for personal injury or death
32 against the owner or operator of a commercial motor vehicle
33 shall be limited to \$1 million for any occurrence regardless
34 of the number of derivative claims, theories of liability, or
35 defendants in the civil action. Under current law, noneconomic

1 damages are unlimited except for suits under Code sections
2 123.92 (dramshop liability) and 147.136A (medical malpractice).
3 The bill provides that a claim for punitive or exemplary
4 damages in an action governed by Code section 668A.1 shall
5 not be included in any initial claim for relief. A claim for
6 punitive or exemplary damages may be allowed by amendment to
7 the pleadings only after the exchange of initial disclosures
8 and after the plaintiff establishes prima facie proof of a
9 triable issue. After the plaintiff establishes the existence
10 of a triable issue of punitive or exemplary damages, the court
11 may allow additional discovery on the issue of punitive or
12 exemplary damages. Under current law and under the bill, the
13 mere allegation or assertion of a claim for punitive damages
14 cannot form the basis for discovery of the wealth or ability to
15 respond in damages on behalf of the party from whom punitive
16 damages are claimed until the claimant has established that
17 sufficient admissable evidence exists to support a prima facie
18 case establishing, by a preponderance of clear, convincing, and
19 satisfactory evidence, that the conduct of the defendant from
20 which the claim arose constituted willful and wanton disregard
21 for the rights or safety of another.