SENATE FILE 228
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1114)

(COMPANION TO HF 201 BY
COMMITTEE ON JUDICIARY)

(As Amended and Passed by the Senate February 22, 2023)

_____ and [= New Language by the Senate

* = Language Stricken by the Senate

A BILL FOR

An Act relating to tort liability, including employer liability and damages in civil actions involving commercial motor vehicles.

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

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

1. Subject to subsection 4, in a civil action involving the operation of a commercial motor vehicle, if an employer who is a defendant in the action complies with subsection 2, the employer's liability for damages caused by the negligence of an employee operating a commercial motor vehicle within the course and scope of employment shall be based solely on respondeat superior and not on the employer's direct negligence in hiring, training, supervising, or trusting the employee.

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

3. If an employer makes the stipulations in subsection 2 with respect to an employee, and the employee's negligence is found to have caused or contributed to causing the damages, the employer shall be adjudged liable solely on the basis of respondeat superior for all the resulting damages.

4. This section does not apply if the civil action involving a commercial motor vehicle arises from an incident for which an employee is convicted under section 321J.2 or found to be in violation of 49 C.F.R. §392.4 or 49 C.F.R. §392.5.

5. As used in this section:

a. "Commercial motor vehicle" means as defined in section 321.1, subsection 11, paragraph *"f"*, and also includes a business-trade truck as defined in section 321.1, subsection

7A; a combination of vehicles as defined in section 321.1, subsection 9; a commercial vehicle as defined in section 321.1, subsection 12, and section 326.2; a crane as defined in section 321.1, subsection 15A; a farm tractor as defined in section 321.1, subsection 24; a fence-line feeder as defined in section 321.1, subsection 24A; an implement of husbandry as defined in section 321.1, subsection 32; a light delivery truck, panel delivery truck, or pickup as defined in section 321.1, subsection 35; a motor truck as defined in section 321.1, subsection 41; an off-road utility vehicle as defined in section 321.1, subsection 47A; a road tractor as defined in section 321.1, subsection 64A; a special mobile equipment as defined in section 321.1, subsection 74; a special truck as defined in section 321.1, subsection 75; a tank wagon as defined in section 321.1, subsection 80A; a towing or recovery vehicle as defined in section 321.1, subsection 83A; a tracked implement of husbandry as defined in section 321.1, subsection 83B; a transporter as defined in section 321.1, subsection 87; a truck tractor as defined in section 321.1, subsection 88; and a utility maintenance vehicle as defined in section 321.1, subsection 89A.

b. *"Convicted"* means convicted of an indictable offense and includes a guilty plea or other finding of guilt by a court of competent jurisdiction.

c. *"Operation"* or *"operating"* means actual physical control of a commercial motor vehicle upon a highway as defined in section 321.1.

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

1. As used in this section:

a. *"Commercial motor vehicle"* means as defined in section 321.1.

b. *"Convicted"* means convicted of an indictable offense and includes a guilty plea or other finding of guilt by a court of competent jurisdiction.

c. "*Inflation*" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for all urban consumers for the midwest region, all items, or its successor index.

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

e. "*Operation*" means actual physical control of a commercial motor vehicle upon a highway as defined in section 321.1.

2. The total amount recoverable by each plaintiff in any civil action involving the operation of a commercial motor vehicle for noneconomic damages for personal injury or death, whether in tort, contract, or otherwise, against the owner or operator of a commercial motor vehicle shall be limited to two million dollars, regardless of the number of claims, theories of liability, or defendants in the civil action.

3. *a.* The limitation on damages set forth in subsection 2 shall be adjusted for inflation by the secretary of state on January 1, 2026, and on January 1 of each even-numbered year thereafter.

b. The secretary of state shall certify and publish the adjusted limitation on damages within fourteen days after the appropriate information is available.

4. This section does not apply if the civil action involving a commercial motor vehicle arises from an incident for which an employee is convicted under section 321J.2 or found to be in violation of 49 C.F.R. §392.4 or 49 C.F.R. §392.5.

Sec. 3. Section 668A.1, subsection 2, paragraphs a and b, Code 2023, as amended by 2023 Iowa Acts, House File 161, section 4, is amended to read as follows:

a. If the answer or finding pursuant to subsection 1, paragraph "*b*", is affirmative, or if the claim is against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist,

chiropractor, physician assistant, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, or if the claim is part of a civil action involving the operation of a commercial motor vehicle, then the full amount of the punitive or exemplary damages awarded shall be paid to the claimant.

b. If the answer or finding pursuant to subsection 1, paragraph "*b*", is negative, and if the claim is not against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, and if the claim is not part of a civil action involving the operation of a commercial motor vehicle, then after payment of all applicable costs and fees, an amount not to exceed twenty-five percent of the punitive or exemplary damages awarded may be ordered paid to the claimant, with the remainder of the award to be ordered paid into a civil reparations trust fund administered by the state court administrator. Funds placed in the civil reparations trust shall be under the control and supervision of the executive council, and shall be disbursed only for purposes of indigent civil litigation programs or insurance assistance programs.