

Senate File 2139

H-8187

1 Amend the amendment, H-8186, to Senate File 2139, as passed
2 by the Senate, as follows:

3 1. By striking page 1, line 1, through page 3, line 19, and
4 inserting:

5 <Amend Senate File 2139, as passed by the Senate, as follows:

6 1. By striking everything after the enacting clause and
7 inserting:

8 <DIVISION I

9 TORT LIABILITY

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

12 1. Subject to subsection 4, in a civil action involving the
13 operation of a commercial motor vehicle as defined in section
14 321.1, if an employer who is a defendant in the action complies
15 with subsection 2, the employer's liability for damages caused
16 by the negligence of an employee operating a motor vehicle
17 within the course and scope of employment shall be based
18 solely on respondeat superior and not on the employer's direct
19 negligence in hiring, training, supervising, or trusting the
20 employee.

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

33 3. If an employer makes the stipulations in subsection 2
34 with respect to an employee, and the employee's negligence is
35 found to have caused or contributed to causing the damages,

1 the employer shall be adjudged liable solely on the basis of
2 respondeat superior for all the resulting damages.

3 4. This section shall not apply if the civil action
4 involving a commercial motor vehicle arises from an incident
5 for which an employee is convicted under section 321J.2 or
6 found to be in violation of 49 C.F.R. §392.4 or 49 C.F.R.
7 §392.5.

8 5. As used in this section, unless the context requires
9 otherwise:

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

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

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

18 1. As used in this section:

19 a. "*Commercial motor vehicle*" means the same as defined in
20 section 321.1.

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

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

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

32 e. "*Occurrence*" means the event, incident, or happening,
33 and the acts or omissions incident thereto, which proximately
34 caused injuries or damages for which recovery is claimed.

35 f. "*Operation*" or "*operating*" means actual physical control

1 of a commercial motor vehicle upon a highway as defined in
2 section 321.1.

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

10 3. This section shall not apply if the civil action
11 involving a commercial motor vehicle arises from an incident
12 for which an employee is convicted under section 321J.2 or
13 found to be in violation of 49 C.F.R. §392.4 or 49 C.F.R.
14 §392.5.

15 4. *a.* The limitation on damages set forth in subsection 2
16 shall be adjusted for Inflation by the secretary of state on
17 January 1, 2026, and each January 1 of an even-numbered year
18 thereafter.

19 *b.* The secretary of state shall certify the adjusted
20 limitation on damages within fourteen days after the
21 appropriate information is available.

22 Sec. 3. Section 668A.1, subsection 2, Code 2022, is amended
23 to read as follows:

24 2. An award for punitive or exemplary damages shall not be
25 made unless the answer or finding pursuant to [subsection 1](#),
26 paragraph "a", is affirmative. If such answer or finding is
27 affirmative, the jury, or court if there is no jury, shall fix
28 the amount of punitive or exemplary damages to be awarded, and
29 such damages shall be ordered paid as follows:

30 *a.* If the answer or finding pursuant to [subsection 1](#),
31 paragraph "b", is affirmative, the full amount of the punitive
32 or exemplary damages awarded shall be paid to the claimant.

33 *b.* If the answer or finding pursuant to [subsection 1](#),
34 paragraph "b", is negative, after payment of all applicable
35 costs and fees, an amount not to exceed twenty-five percent

1 of the punitive or exemplary damages awarded may be ordered
2 paid to the claimant, with the remainder of the award to be
3 ordered paid into a civil reparations trust fund administered
4 by the state court administrator. Funds placed in the civil
5 reparations trust shall be under the control and supervision of
6 the executive council, and shall be disbursed only for purposes
7 of indigent civil litigation programs or insurance assistance
8 programs.

9 c. Notwithstanding paragraph "b", if the claim involves the
10 operation of a commercial motor vehicle, then the full amount
11 of the punitive or exemplary damages awarded shall be paid to
12 the claimant.

13 Sec. 4. Section 668A.1, Code 2022, is amended by adding the
14 following new subsection:

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

25 DIVISION II

26 COVID-19 — PRIVACY PROTECTIONS

27 Sec. 5. Section 27C.2, Code 2022, is amended to read as
28 follows:

29 27C.2 ~~Proof~~ COVID-19 proof of vaccination immunization —
30 immunization and medical treatment status — denial of state
31 grants or contracts — penalties.

32 1. Notwithstanding any provision of law to the contrary,
33 an employer shall not require an employee to furnish an
34 immunity passport, and a business, educational institution,
35 or governmental entity shall not require a customer, patron,

1 client, patient, or other person who is invited onto the
2 premises of the business, educational institution, or
3 governmental entity to furnish ~~proof of having received a~~
4 ~~vaccination for COVID-19, as defined in section 686D.2, an~~
5 immunity passport prior to entering onto the premises of the
6 business, educational institution, or governmental entity.
7 ~~This section does not prohibit a business or governmental~~
8 ~~entity from implementing a COVID-19 screening protocol that~~
9 ~~does not require proof of vaccination for COVID-19.~~

10 2. A business, educational institution, employer, or
11 governmental entity shall not do any of the following:

12 a. Refuse, withhold from, or deny to a person any
13 services, goods, facilities, advantages, privileges, access,
14 transportation or freedom of movement, licensing, educational
15 opportunities, or access to medical care, based on the person's
16 COVID-19 immunization status.

17 b. Except when federal law otherwise requires, exclude,
18 segregate, refuse to serve, require a mask or other facial
19 covering, require testing, or otherwise unfairly discriminate
20 against a person, based on the person's COVID-19 immunization
21 status.

22 c. Except when federal law otherwise requires, inquire into
23 the COVID-19 medical treatment status or maintain a record of
24 the COVID-19 medical treatment status of a person.

25 d. Except when federal law otherwise requires, maintain an
26 existing record of the COVID-19 medical treatment status of a
27 person if the person requests that the record be deleted.

28 3. a. Subsection 2, paragraph "c", shall not interfere with
29 a person's right to access the person's own health information
30 under any applicable state or federal law or any responsibility
31 of a health care professional to comply with any applicable
32 state or federal law or standards of care in administering
33 health care to a person.

34 b. Subsection 2, paragraphs "a", "c", and "d", shall not
35 apply to a health carrier as defined in section 514J.102

1 or to a person engaged in the business of insurance who is
2 regulated under chapter 508 in relation to a contract, benefit,
3 term, condition, or type of coverage based on sound actuarial
4 principals or related to actual or reasonably anticipated
5 experience.

6 ~~2.~~ 4. Notwithstanding any provision of law to the
7 contrary, grants or contracts funded by state revenue shall
8 not be awarded to or renewed with respect to ~~a business or~~
9 ~~governmental entity~~ any of the following:

10 a. A business or governmental entity that violates
11 subsection 1 on or after May 20, 2021.

12 b. An educational institution or employer that violates
13 subsection 1 on or after the effective date of this division
14 of this Act.

15 5. Except when federal law otherwise requires immunization
16 against COVID-19 related to employment, if an employer
17 discharges an employee based on the employee's COVID-19
18 immunization status, the discharged individual files a claim
19 for benefits pursuant to section 96.6, and the department of
20 workforce development determines the discharged individual was
21 discharged based upon the discharged individual's COVID-19
22 immunization status in violation of this section, the employer
23 shall pay a fine of fifty thousand dollars to the department
24 of workforce development. Upon receipt of the fine, the
25 department of workforce development shall award twenty-five
26 thousand dollars to the discharged individual and shall retain
27 twenty-five thousand dollars as repayment receipts as defined
28 in section 8.2. Notwithstanding section 8.33, moneys retained
29 by the department of workforce development pursuant to this
30 section are not subject to reversion to the general fund of the
31 state.

32 ~~3.~~ 6. For the purposes of **this section**:

33 a. "Business" means a retailer required to obtain a
34 sales tax permit pursuant to **chapter 423**, a nonprofit or
35 not-for-profit organization, or an establishment which is open

1 to the public at large or where entrance is limited by a cover
2 charge or membership requirement, ~~but does not include a health~~
3 ~~care facility as defined in [section 686D.2](#).~~

4 b. "COVID-19" means the same as defined in section 686D.2.

5 c. "COVID-19 immunization" or "immunization against COVID-19"
6 means receiving a vaccination against COVID-19 which may
7 include a vaccine for which a biologics license application
8 has not been approved pursuant to 42 U.S.C. §262 by the United
9 States food and drug administration.

10 d. "Educational institution" includes any licensed child
11 care center as defined in section 237A.1, preschool, elementary
12 or secondary school, community college, area education agency,
13 or postsecondary college or university and their governing
14 boards.

15 e. "Employee" means an individual who is employed in
16 this state for wages by an employer. "Employee" includes an
17 applicant for employment.

18 f. "Employer" means a person, as defined in chapter 4, who
19 in this state employs for wages a natural person.

20 ~~b. g. "Governmental entity" means the state or any~~
21 ~~political subdivision of the state that owns, leases, or~~
22 ~~operates buildings under the control of the state or a~~
23 ~~political subdivision of the state, ~~but does not include a~~~~
24 ~~health care facility as defined in [section 686D.2](#).~~

25 h. "Health care professional" means a person who is
26 licensed, certified, or otherwise authorized or permitted by
27 the law of this state to administer health care in the ordinary
28 course of business or in the practice of a profession.

29 i. "Immunity passport" means a document, digital record,
30 or software application indicating that a person has received
31 immunization against COVID-19 or has gained natural immunity
32 through infection and recovery.

33 j. "Medical treatment" means a health care treatment,
34 service, or procedure designed to maintain or treat a person's
35 physical or mental condition, and includes preventive care,

1 medical devices, and vaccinations.

2 Sec. 6. CODE EDITOR DIRECTIVE. The Code editor shall amend
3 the title of chapter 27C, Code 2022, to read "COVID-19 — PROOF
4 OF IMMUNIZATION — IMMUNIZATION AND MEDICAL TREATMENT STATUS".

5 Sec. 7. EFFECTIVE DATE. This division of this Act, being
6 deemed of immediate importance, takes effect upon enactment.>

7 2. Title page, by striking lines 1 and 2 and inserting
8 <An Act relating to matters under the purview of the state,
9 including civil torts and COVID-19 proof of immunization and
10 immunization and medical treatment status, and including
11 effective date provisions.>>

BOUSSELOT of Polk