

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 583

By Senators Stuart, Azinger, Deeds, Phillips, Smith,

Tarr, Taylor, and Roberts

[Introduced January 29, 2024; referred

to the Committee on Transportation and

Infrastructure; and then to the Committee on the

Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new
 2 sections, designated §55-7-32 and §55-7-33, all relating to employer liability and damages
 3 in civil actions involving commercial motor vehicles.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-32. Liability for employee negligence in actions involving commercial motor vehicles.

1 (a) In any civil action involving the operation of a commercial motor vehicle requiring a
 2 commercial driver’s license, an employer defendant’s liability for damages caused by the
 3 negligence of an employee operating a commercial motor vehicle within the course and scope of
 4 employment shall be based solely on respondeat superior and not on the employer defendant’s
 5 direct negligence in hiring, training, supervising, or entrusting the employee if the employer
 6 defendant complies with subsection (b) of this section.

7 (b) On motion of an employer defendant in a civil action involving the operation of a
 8 commercial motor vehicle, a trial court shall dismiss from a civil action any claim of the employer
 9 defendant’s direct negligence in hiring, training, supervising, or entrusting the employee, or other
 10 claim of direct negligence, if the employer defendant stipulates that, at the time of the event that
 11 caused the damages that are the subject of the civil action, the person whose negligence is
 12 alleged to have caused the damages was: (1) the employer’s employee; and (2) acting within the
 13 course and scope of employment with the employer.

14 (c) If an employer defendant stipulates as provided in subsection (b) of this section and the
 15 employee’s negligence is found to have caused or contributed to causing the damages, the
 16 employer defendant shall be adjudged liable solely on the basis of respondeat superior.

17 (d) As used in this section:

18 "Commercial motor vehicle" means as defined in §17E-1-3(7) (A), (B), and (D) of this code,
 19 and also includes a truck tractor, road tractor, trailer, and semitrailer, and pole trailer as defined in

20 §17A-1-1 of this code. For purposes of this section, "commercial motor vehicle" does not include a
21 vehicle serving as a common carrier of passengers, a commercial motor vehicle as defined in
22 §17E-1-3(7)(C) of this code, a school bus as defined in 17E-1-3(33) of this code, or other vehicle
23 that is primarily engaged in transporting passengers.

24 "Employee" means a person who works for another person for compensation as an
25 operator of a commercial motor vehicle in interstate or intrastate commerce to transport property,
26 deliver or transport goods, or provide services. The term includes a person deemed an employee
27 under state or federal law, including 49 C.F.R. §390.5, and any other agent or person to whom an
28 employer defendant may be liable under respondeat superior. The term does not include an
29 employee of the United States, any State, or any political subdivision of a State.

30 "Employer defendant" means (A) the owner of a commercial motor vehicle; (B) the
31 employer of the person operating a commercial motor vehicle; or (C) any other person or entity
32 that owns, leases, rents, or otherwise holds or exercises legal control over a commercial motor
33 vehicle or operator of a commercial motor vehicle.

34 "Operation" means driving, operating or being in physical control of a commercial motor
35 vehicle in any place open to the general public for purposes of vehicular traffic.

§55-7-33. Limit on liability for noneconomic loss – operation of commercial motor vehicles.

1 (a) In any civil action for personal injury or wrongful death involving the operation of a
2 commercial motor vehicle requiring a commercial driver's license, the maximum amount
3 recoverable by each plaintiff against the owner or operator of a commercial motor vehicle as
4 compensatory damages for noneconomic loss may not exceed \$1 million for each occurrence,
5 regardless of the number of claims, theories of liability, or defendants.

6 (b) The limitation on noneconomic damages contained in subsection (a) of this section is
7 not available to any defendant that does not have commercial motor vehicle insurance in the
8 aggregate amount of at least \$750,000 for each occurrence covering the medical injury that is the
9 subject of the action.

10 (c) This section does not apply if the civil action involving a commercial motor vehicle
11 arises from an incident for which an employee is found to have:

12 (1) Operated a commercial motor vehicle with an alcohol concentration of .04 or more, as
13 defined in §17E-1-14 of this code.

14 (2) Refused to submit to testing required under section §17E-1-14 of this code.

15 (3) Operated a commercial motor vehicle under the influence of any controlled substance,
16 other drug, or inhalant substance.

17 (d) On January 1, 2026, and in each year thereafter, the limitation for compensatory
18 damages contained in subsection (b) of this section shall increase to account for inflation by an
19 amount equal to the Consumer Price Index published by the United States Department of Labor,
20 not to exceed one hundred fifty percent of the amounts specified in said subsections.

21 (e) As used in this section:

22 "Commercial motor vehicle" means as defined in § 17E-1-3(7) (A), (B), and (D of this
23 code), and also includes a truck tractor, road tractor, trailer, and semitrailer, and pole trailer as
24 defined in §17A-1-1 of this code. For purposes of this section, "commercial motor vehicle" does
25 not include a vehicle serving as a common carrier of passengers, a commercial motor vehicle as
26 defined in §17E-1-3(7)(C) of this code, a school bus as defined in §17E-1-3(33) of this code, or
27 other vehicle that is primarily engaged in transporting passengers.

28 "Noneconomic loss" means losses, including, but not limited to, pain, suffering, mental
29 anguish, and grief.

30 "Operation" means driving, operating or being in physical control of a commercial motor
31 vehicle in any place open to the general public for purposes of vehicular traffic.

NOTE: The purpose of this bill is to provide a streamlined process for evaluating an employer's liability for personal injury and wrongful death claims involving operators of commercial motor vehicles and to limit noneconomic damages in such actions to \$1 million per plaintiff with certain exceptions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.