

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 583**

By Senators Stuart, Azinger, Deeds, Phillips, Smith,  
Tarr, Taylor, and Roberts

[Passed March 9, 2024; to take effect July 1, 2024]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §55-7-32, relating to employer liability and damages in civil actions arising out  
3 of the operation of commercial motor vehicles; defining terms; establishing cap on  
4 noneconomic loss in certain circumstances; providing exceptions to applicability of cap;  
5 permitting cap to increase annually to account for inflation; setting forth effective date; and  
6 providing for applicability to causes of action arising after effective date.

*Be it enacted by the Legislature of West Virginia:*

1 **ARTICLE 7. ACTIONS FOR INJURIES.**

2 **§55-7-32. Liability for employee negligence in actions involving commercial motor**  
3 **vehicles.**

4 (a) As used in this section:

5 "Commercial motor vehicle" means as defined in §17E-1-3(7) (A), (B), and (D) of this code,  
6 and also includes a truck tractor, road tractor, trailer, semitrailer, and pole trailer as defined in  
7 §17A-1-1 of this code. For purposes of this section, "commercial motor vehicle" does not include a  
8 vehicle serving as a common carrier of passengers, a commercial motor vehicle as defined in  
9 §17E-1-3(7)(C) of this code, a school bus as defined in §17E-1-3(33) of this code, or other vehicle  
10 that is primarily engaged in transporting passengers.

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

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

17 (b) In any civil action for personal injury or wrongful death involving the operation of a  
18 commercial motor vehicle requiring a commercial driver's license, the maximum amount  
19 recoverable by each person injured or killed against the employer defendant of a commercial

20 motor vehicle as compensatory damages for noneconomic loss may not exceed \$5 million for  
21 each occurrence, regardless of the number of claims or theories of liability.

22 (c) The limitation on noneconomic damages contained in subsection (b) of this section is  
23 not available to any employer defendant that does not have commercial motor vehicle insurance in  
24 the aggregate amount of at least \$3 million for each occurrence covering the personal injury that is  
25 the subject of the action.

26 (d) This section does not apply if the civil action involving a commercial motor vehicle  
27 arises from an incident for which an operator or driver is found to have:

28 (1) At the time of the incident, operated a commercial motor vehicle with an alcohol  
29 concentration of .04 or more as defined in §17E-1-14 of this code;

30 (2) Following the incident, refused to submit to testing required under §17E-1-15 of this  
31 code;

32 (3) At the time of the incident, operated a commercial motor vehicle under the influence of  
33 any controlled substance, other drug, or inhalant substance;

34 (4) At the time of the incident, operated a commercial motor vehicle in excess of the hours  
35 of operation established under state or federal regulations;

36 (5) At the time of the incident, operated a commercial motor vehicle in willful or wanton  
37 disregard for the safety of persons or property;

38 (6) At the time of the incident, operated a commercial motor vehicle loaded in excess of the  
39 maximum gross vehicle weight rating established under state or federal regulations, not including  
40 when an operator or driver is legally operating the vehicle according to permit issued under §17C-  
41 17-11 of this code; or

42 (7) At the time of the incident, operated a commercial motor vehicle while engaging in one  
43 or more of the acts that constitute distracted driving as set forth in §17C-14-15(e) of this code.

44 (e) On January 1, 2026, and in each year thereafter, the limitation on compensatory  
45 damages for noneconomic loss contained in subsection (b) of this section shall increase to

46 account for inflation by an amount equal to the Consumer Price Index published by the United  
47 States Department of Labor, not to exceed 150 percent of the amounts specified in said  
48 subsection.

49 (f) This section shall be effective on July 1, 2024, and shall only apply to causes of action  
50 arising after the effective date.