

## HOUSE REPUBLICAN STAFF ANALYSIS

Bill: Senate File 228 (Formerly HF 201)	House Committee: <b>PASSED</b> February 2 (11-10)
Committee: Judiciary	House Floor: <b>PASSED</b> on March 28 (58-42)
Floor Manager: Rep. Gustoff	Senate Floor: <b>PASSED</b> February 22 (30-19)
Date: May 8, 2023	Bouncing: <b>PASSED</b> on April 17 (31-19)
Staff: Amanda Wille (1-5230)	Governor:

### Commercial Motor Vehicles- Noneconomic Damages

- SF 228, as amended caps noneconomic damages from a commercial motor vehicle accident at \$5 million per individual.
- Noneconomic damages are those that can't be calculated such as- pain, suffering, mental anguish, emotional pain, etc.
- SF 228 also clarifies when an employer can be held liable for negligent hiring.

### Section by Section Analysis

#### Section 1- Liability in Tort- Comparative Fault- No liability for Negligent Hiring in Actions Involving Commercial Motor Vehicles (668.12A)

In a civil action that involves a commercial motor vehicle, there is no civil liability for damages for negligent hiring if all of the following apply:

- The employer complies with subsection 2
- The employee's actions that caused the damage are within the course and scope of the employment

An employer who is a defendant in a civil action may file a motion for the claim of direct negligence in hiring to be dismissed, if the employer stipulates:

- The person whose negligence caused the damage was the employee and
- The person was acting within the course and scope of employment.

If an employer stipulates the above and the employee's negligence caused or contributed to the damages the employer's liability for negligent hiring shall be adjudicated solely on the basis of respondent superior (legal doctrine meaning an employer is responsible for the actions of their employees during the course of their employment)

#### Section 2- Liability in Tort- Comparative Fault-Noneconomic Damages- Commercial Motor Vehicle Owners or Operators (668.15A)

Caps the amount each individual plaintiff can recover for noneconomic damages in a case of personal injury or death in a civil action at five million dollars

Caps shall not apply if the trial court finds by a preponderance of the evidence that the negligent act involved any of the following:

- Operating with an alcohol concentration of .04 or more.
- Operating while under the influence of drugs
- Refusing to submit to required chemical testing
- A felony involving the use of a motor vehicle
- Using the commercial motor vehicle to manufacture, distribute, or dispense controlled substances
- Operating a commercial vehicle without a proper license
- Operating a commercial vehicle involved in human trafficking
- Reckless driving
- Use of electronic communication device while driving.
- Speeding 15 mph or more over the legal limit
- Violating any local law or ordinance restricting the use of phones or other devices while driving

The limitation on damages do not apply to cases involving vehicles that do not require a commercial motor vehicle license.

The limitation does not apply to commercial vehicles that primarily transport passengers.

Limitation on damages shall be adjusted for inflation.

Section 3- Punitive or Exemplary Damages- Punitive or Exemplary Damages (668A.1)

Ensures the victim gets the full amount of the punitive or exemplary damages

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## Amendment Analysis