

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Engrossed

Committee Substitute

for

Senate Bill 583

BY SENATORS STUART, AZINGER, DEEDS, PHILLIPS,

SMITH, TARR, TAYLOR, AND ROBERTS

[Originating in the Committee on Transportation and
Infrastructure; reported February 20, 2024]

1 A BILL 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 based upon
3 alleged negligence in the operation of commercial motor vehicles; defining terms;
4 establishing monetary caps; and providing exceptions to applicability to established
5 monetary caps.

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) As used in this section:

2 "Commercial motor vehicle" means as defined in §17E-1-3(7) (A), (B), and (D) of this code,
3 and also includes a truck tractor, road tractor, trailer, semitrailer, and pole trailer as defined in
4 §17A-1-1 of this code. For purposes of this section, "commercial motor vehicle" does not include
5 a vehicle serving as a common carrier of passengers, a commercial motor vehicle as defined in
6 §17E-1-3(7)(C) of this code, a school bus as defined in §17E-1-3(33) of this code, or other vehicle
7 that is primarily engaged in transporting passengers.

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

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

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

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

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

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

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

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

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

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

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

35 (6) At the time of incident, operated a commercial motor vehicle loaded in excess of the
36 maximum gross vehicle weight rating established under state or federal regulations; or

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

39 (e) On January 1, 2026, and in each year thereafter, the limitation on compensatory
40 damages for noneconomic loss contained in subsection (b) of this section shall increase to
41 account for inflation by an amount equal to the Consumer Price Index published by the United

42 States Department of Labor, not to exceed one hundred fifty percent of the amounts specified in
43 said subsection.

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