**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 8 TO CHAPTER 23, TITLE 58 SO AS TO ESTABLISH THE “CDL DRIVER EMPLOYMENT PROTECTION ACT”, TO PROVIDE THAT CIVIL LIABILITY CLAIMS MADE AGAINST AN EMPLOYER OF A PERSON WHO HOLDS A VALID COMMERCIAL DRIVER LICENSE BASED ON A THEORY OF NEGLIGENT HIRING, TRAINING, RETENTION, OR ENTRUSTMENT MUST BE CONSIDERED IN THE SECOND PHASE OF A BIFURCATED TRIAL PURSUANT TO SECTION 15‑32‑520(E), IF THERE IS EVIDENCE TO SUPPORT AN AWARD OF PUNITIVE DAMAGES, BUT PUNITIVE DAMAGES MAY NOT BE AWARDED AGAINST AN EMPLOYER SOLELY ON THE BASIS OF VICARIOUS LIABILITY.

Whereas, it is the public policy of this State to recognize that: a viable truck transportation industry with an adequate supply of professionally licensed drivers is critical to the state’s economy; commercial motor vehicle owners must meet strict federal and state requirements to maintain fleet operations on public highways; professional drivers must meet strict federal and state requirements in order to obtain and keep a commercial driver’s license; and they are subject to law enforcement oversight while in the conduct of their ordinary business operations in multiple jurisdictions with exposure to inconsistent enforcement and inspection practices, all of which result in records that may be misconstrued by regulators, plaintiffs, and jurors; and

Whereas, commercial motor vehicle operators and their professional drivers should not be held to a higher standard of conduct than members of other professions and industries in the State when facing civil actions in the state’s courts. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 23, Title 58 of the 1976 Code is amended by adding:

“Article 8

CDL Driver Employment Protection Act

Section 58‑23‑810. (A) In trials of civil actions where vicarious liability of an employer or principal has been admitted, civil liability claims made against the employer of a person who holds a valid commercial driver license issued by this State or another state based on a theory of negligent hiring, negligent training, negligent supervision, negligent retention, or negligent entrustment must not be considered in the first phase of a bifurcated trial pursuant to Section 15‑32‑520(E) and only can be considered in the second phase of a bifurcated trial pursuant to Section 15‑32‑520(E) if there is evidence against the employer which would support an award of punitive damages.

(B) A violation of a regulation enacted under the motor vehicle traffic and safety statutes and regulations of this State or of another state, or the Federal Motor Carrier Safety Regulations, or a conviction of a moving violation, shall not constitute per se wilful, wanton, or reckless conduct, or gross negligence and must not be admissible in the first phase of a bifurcated trial pursuant to Section 15‑32‑520(E). Evidence of such a violation or conviction that is otherwise admissible must be admissible in the second phase of a bifurcated trial pursuant to Section 15‑32‑520(E) only for the purpose of proving wilful, wanton, or reckless conduct.

(C) Punitive damages may not be awarded against the employer of a person holding a valid commercial driver’s license based solely on a finding of vicarious liability.”

SECTION 2. This act takes effect upon approval by the Governor.

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