**South Carolina General Assembly**

120th Session, 2013-2014

**S. 865**

**STATUS INFORMATION**

General Bill

Sponsors: Senators L. Martin, Alexander, Campbell, O'Dell, Reese, Verdin, Peeler, Shealy, Gregory, Massey, Turner, Bennett, Cromer, Fair, McGill, S. Martin and Grooms

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Introduced in the Senate on January 14, 2014

Currently residing in the Senate Committee on **Judiciary**

Summary: CDL Driver Employment Protection Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/17/2013 Senate Prefiled

12/17/2013 Senate Referred to Committee on **Judiciary**

1/14/2014 Senate Introduced and read first time ([Senate Journal‑page 52](file:///H:\SJ%20Archive\2014\01-14-14.docx))

1/14/2014 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 52](file:///H:\SJ%20Archive\2014\01-14-14.docx))

1/22/2014 Senate Referred to Subcommittee: Massey (ch), Coleman, Gregory

**VERSIONS OF THIS BILL**

[12/17/2013](file:///p:\pprever\2013-14\865_20131217.docx)

**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 WHICH PROVIDES THAT CIVIL LIABILITY CLAIMS MADE AGAINST AN EMPLOYER OF A PERSON WHO HOLDS A VALID COMMERCIAL DRIVER’S LICENSE BASED ON ANY 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 shall be 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 exposures to inconsistent enforcement and inspection practices, all of which result in records which may be misconstrued by regulators, plaintiffs, and jurors.

Now, therefore, 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.

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) Civil liability claims made against an employer of a person who holds a valid commercial driver’s license issued by this state or any other State based on any theory of negligent hiring, negligent training, negligent supervision, negligent retention, or negligent entrustment, must be considered in the second phase of a bifurcated trial described in Section 15‑32‑520(E), if there is evidence against the employer as 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 any other state, or the Federal Motor Carrier Safety Regulations, or a conviction of a moving violation, shall not constitute per se gross negligence, but evidence of such a violation or conviction shall be admissible to prove gross negligence in the second phase of a bifurcated trial as described in Section 15‑32‑520(E), if the violation or conviction is the proximate cause of the injury for which damages are sought.

(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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