

ONE HUNDRED NINTH LEGISLATURE - FIRST SESSION - 2025
COMMITTEE STATEMENT
LB79

Hearing Date: Wednesday February 05, 2025
Committee On: Judiciary
Introducer: Hallstrom
One Liner: Provide for dismissal of certain civil actions involving commercial motor vehicles

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	5	Senators Bosn, Hallstrom, Holdcroft, Storer, Storm
Nay:	3	Senators DeBoer, McKinney, Rountree
Absent:		
Present Not Voting:		

Testimony:

Proponents:

Senator Bob Hallstrom
Marvin Dikeman
Kent Grisham

Matt Quandt

Opponents:

Jason Ausman
Maren Chaloupka
Tressa Nelson
Christopher Welsh
Beth Petersen
Murray Petersen

Neutral:

Representing:

Opening Presenter
Self
Nebraska Trucking Association; Nebraska Insurance
Federation; Nebraska Petroleum Marketers &
Convenience Store Association
Nebraska Defense Counsel Association

Representing:

Nebraska Association of Trial Attorneys
Self
Self
Nebraska Association of Trial Attorneys
Self
Self

Representing:

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

LB 79 creates a new section of law which provides that on the motion of a defendant in a civil action involving a commercial motor vehicle (as defined in section 60-316) requiring a commercial driver's license, the trial court shall dismiss from the civil action any claim of the defendant's direct negligence if the defendant stipulates that, at the time of the event that caused the damages, the individual who caused the damages was the defendant's employee or independent contractor and that such individual was acting within the scope of their employment or contract. If the



defendant makes these stipulations and the employee's or independent contractor's negligence is found to have caused or contributed to the damages, the defendant's liability will be determined solely under the legal doctrine of respondeat superior (which is a legal doctrine where an employer can be held legally responsible for the actions of an employee when those actions are performed within the scope of their employment).

Explanation of amendments:

The Committee considered and adopted an amendment (AM 790) which strikes and replaces the original sections and includes LB 79 as introduced. AM 790 also incorporates LB 132 as amended by AM 1289, LB 199 as amended by AM 1287, LB 205 as amended by AM 1285, and LB 340 as amended by 1283. LB 79 comprises section 23 of AM 790, LB 132 comprises section 30 of AM 790, LB 199 comprises sections 24, 26 to 29, and 31 of AM 790, LB 205 comprises sections 17 to 22 of AM 790, and LB 340 comprises sections 1 to 16 and 25 of AM 790.

LB 132 was introduced by Senator Kauth and provides that evidence that a person was not wearing a seat belt is admissible in any civil proceeding for purposes of determining liability or proximate cause and mitigation of damages. Current law does not allow the admission of such evidence for the purposes of determining liability or proximate cause, and provides that it may be admissible concerning the mitigation of damages, except that it shall not reduce recovery for damages by more than 5 percent.

AM 1289 amends LB 132 to provide that evidence that a person was not wearing a seat belt shall be admissible concerning the mitigation of damages. This change reverts to the current law regarding the determination of liability and proximate cause, but allows a jury to decide the amount of mitigation without restriction as to reduction of recovery for damages.

LB 132 was amended into LB 79 on a 5-3 vote of the Committee:

Aye: Senators Bosn, Hallstrom, Holdcoft, Storer, and Storm

Nay: Senators DeBoer, McKinney, and Rountree

LB 132 had a public hearing on February 5, 2025 with the following testimony:

Proponents:

Senator Kathleen Kauth, Opening Presenter

Kent Grisham, Nebraska Trucking Association; Nebraska Insurance Federation

Andrew Richards, Sapp Bros, Inc.; Nebraska Petroleum Marketers and Convenience Store Association

Bob Lannin, Self

Karen Bailey, Nebraska Defense Counsel Association

Opponents:

Mark Richardson, Nebraska Association of Trial Attorneys

Neutral: None

LB 199 was introduced by Senator Sorrentino and creates a 2-year statute of limitations for actions for personal injury. It also amends the Nonrecourse Civil Litigation Act to add claims presented at an administrative hearing and requires the disclosure of nonrecourse civil litigation funding contracts (nonrecourse civil litigation funding is a financial agreement in which a civil litigation funding company buys a consumer's right to a portion of their potential settlement).

AM 1287 amends section 4 of LB 199 to provide that, within 30 calendar days of receipt of a written request, a



consumer or the consumer's attorney shall disclose and deliver a copy of any contract for nonrecourse civil litigation funding to certain persons. This changes the disclosure of a litigation financing agreement from an automatic disclosure requirement to a disclosure required upon request. AM 1287 also amends section 3 of the bill to add that the term non-recourse litigation funding includes funding provided to an attorney or law firm where the right to receive repayment is contingent in any respect on the outcome of the consumer's legal claim.

LB 199 was amended into LB 79 on a 5-3 vote of the Committee:

Aye: Senators Bosn, Hallstrom, Holdcoft, Storer, and Storm

Nay: Senators DeBoer, McKinney, and Rountree

LB 199 had a public hearing on February 5, 2025 with the following testimony:

Proponents:

Senator Tony Sorrentino, Opening Presenter

Korby Gilbertson, American Property Casualty Insurance Association; Nebraska Insurance Federation

Kent Grisham, Nebraska Trucking Association

Andrew Richards, Sapp Bros, Inc.; Nebraska Petroleum Marketers and Convenience Store Association

Sarah Dempsey, Werner Enterprises

Opponents:

Jennifer Turco Meyer, Nebraska Association of Trial Attorneys

Eric Schuller, Alliance for Responsible Consumer Legal Funding

Rachel Suhr, Self

Tim Hruza, Nebraska State Bar Association

William Rasmussen, Self

Tracie Rasmussen, Self

Neutral: None

LB 205 was introduced by Senator Bosn and creates new sections governing the admissibility of evidence to prove medical damages in personal injury and wrongful death actions. LB 205 also caps non-economic damages at \$1 million for personal injury or death actions involving a commercial motor vehicle.

AM 1285 amends LB 205 to redefine the term "claimant" as a person seeking damages in a personal injury or wrongful death action; makes changes to the evidence offered to prove the amount of damages; adds a new section provide that evidence of past medical expenses actually paid for alleged injuries may be offered by any party as such evidence is relevant to economic and non-economic damages; and increases the cap on non-economic damages to \$2,225,000.

LB 205 was amended into LB 79 on a 5-3 vote of the Committee:

Aye: Senators Bosn, Hallstrom, Holdcoft, Storer, and Storm

Nay: Senators DeBoer, McKinney, and Rountree

LB 205 had a public hearing on February 5, 2025 with the following testimony:

Proponents:

Senator Carolyn Bosn, Opening Presenter

Kent Grisham, Nebraska Trucking Association; Nebraska Petroleum Marketers and Convenience Store Association

Matt Quandt, Nebraska Defense Counsel Association



Opponents:

Jennifer Turco Meyer, Nebraska Association of Trial Attorneys
Zachariah Harger, Self
William Rasmussen, Self
Tracie Rasmussen, Self
Dariana Burr, Self
Maren Chaloupka, Self
Alex McKiernan, Self
Tressa Nelson, Self
Roger Grunke, Self
Ace Schlund, Self
Mark Richardson, Nebraska Association of Trial Attorneys
Elizabeth Govaerts, Nebraska Association of Trial Attorneys
Robert Keith, Self
Pete Wegman, Self
Tim Hruza, Nebraska State Bar Association

Neutral: None

LB 340 was introduced by Senator Hallstrom and relates to civil litigation involving exposure to asbestos. The bill adopts the Asbestos Trust Claims Transparency Act. A person seeking compensation for asbestos-related harms can either file a claim against asbestos trust (a trust that exists to compensate plaintiffs for asbestos-related harms caused by a bankrupt company) or file an asbestos action. The Asbestos Trust Claims Transparency Act accelerates the process for filing an asbestos action and requires the claimant to disclose all available asbestos trust claims. The trust claim materials and trust governance documents are admissible as evidence under the act and the claimant has an ongoing duty to disclose. The disclosure requirements make a claimant's asbestos exposure history available to the jury and better enables the jury to determine liability for the claimant's harm.

The bill also adopts the Asbestos Claims Priorities and Over-Naming Reform Act. This act allows a claimant who claims exposure to asbestos, but who is not presently experiencing asbestos-related harms, to preserve the claim; requires a claimant to disclose and provide the documentation for the factual basis for each claim against each defendant; provides what evidence is required to make a prima facie showing under the act; requires a claimant to provide all parties with a detailed narrative medical report and supporting test results constituting prima facie evidence that the claimant has a physical impairment for which asbestos exposure was a substantial contributing factor; sets out requirements for the discovery and admissibility of evidence; and allows a court to consolidate multiple asbestos actions with the consent of all parties or, absent such consent, limits the court to consolidation of actions relating to the exposed person and members of that person's household. Additionally, for non-malignant asbestos-related claims, the statute of limitations under section 25-224 is tolled until the date the exposed person receives or could have reasonably received a formal diagnosis of an asbestos-related impairment or the exposed person's date of death, whichever is earlier.

AM 1283 amends LB 340 to amend the following sections:

Section 4: LB 340, as introduced, allows a defendant to request a court order requiring the claimant to file additional trust claims that the defendant believes the claimant is eligible to file. AM 1283 modifies this to first require the defendant to meet and confer with the claimant's counsel prior to requesting this order. This is common practice in the judicial system and encourages parties to resolve differences prior to judicial intervention.



Section 5: LB 340, as introduced, allows juries to be informed of the specific amount of consideration paid by an asbestos trust to a claimant. AM 1283 specifically states that juries shall not be informed of the amount of the consideration paid, just that the claimant has received trust payments.

Section 9: An unnecessary definition ("Board-certified in oncology") is struck.

Section 10: LB 340, as introduced, requires the filing of affidavits within 30 days after filing an asbestos action related to specifying the evidence that provides the basis for each claim against each defendant. AM 1283 increases the amount of time for this filing to 60 days.

Section 13: LB 340, as introduced, contains section 13 related to the detailed medical reports necessary to make a prima facie showing required by section 11 of LB 340 for malignant conditions. AM 1283 strikes section 13.

LB 340 was amended into LB 79 on a 5-3 vote of the Committee:

Aye: Senators Bosn, Hallstrom, Holdcoft, Storer, and Storm

Nay: Senators DeBoer, McKinney, and Rountree

LB 340 had a public hearing on February 21, 2025 with the following testimony:

Proponents:

Senator Bob Hallstrom, Opening Presenter

Mary Margaret Gay, U.S. Chamber of Commerce Institute for Legal Reform

Robert Bell, Nebraska Insurance Federation

Opponents:

Elizabeth Govaerts, Nebraska Association of Trial Attorneys

Neutral: None

Section-by-Section Summary

Section 1: A new section that titles sections 1 to 7 as the Asbestos Trust Claims Transparency Act. (LB 340)

Section 2: A new section of law that defines terms for purposes of the Asbestos Trust Claims Transparency Act. (LB 340)

Section 3: A new section of law requiring a claimant in an asbestos action, within 30 days of filing the action, to submit all available asbestos trust claims, provide all related trust claims materials, and file and provide all parties with an affidavit indicating that all asbestos trust claims that can be made by the claimant have been filed and that all trust claims materials produced by the claimant are true and complete. A deferral or placeholder claim that is missing necessary documentation does not meet the requirements of this section. The claimant must also file all trust claims filed by a person other than the claimant if the action is based on exposure to asbestos through that person. (LB 340)

Section 4: A new section of law which provides that, not less than 60 days before trial, if a defendant believes the claimant has not filed all asbestos trust claims as required by section 3 of the act, the defendant shall meet and confer with the claimant's counsel, or with the claimant if the claimant is not represented by counsel, to discuss why the defendant believes the claimant is eligible to file an additional trust claim. After such meeting, the defendant may move for a court order to require the claimant to file the additional asbestos trust claims the defendant believes the



claimant is eligible to file. The defendant shall produce or describe the documentation it possesses or is aware of in support of the motion. (LB 340 as amended by AM 1283)

Section 5: A new section of law which provides that trust claim materials and trust governance documents are admissible as evidence in an asbestos action, are presumed to be relevant and authentic, and that no claims of privilege apply to trust claim materials and trust governance documents. A jury shall not be informed of the specific amount of consideration paid by an asbestos trust to a claimant in settlement of a claim. A defendant in an asbestos action may seek discovery from an asbestos trust. The claimant may not claim privilege or confidentiality to bar discovery and shall provide consent or other expression of permission that may be required by the asbestos trust to release information and materials sought by a defendant. (LB 340 as amended by AM 1283)

Section 6: A new section of law which provides that in an asbestos action in which damages are awarded and setoffs are permitted under applicable law, a defendant is entitled to a setoff in the amount the claimant has received from an asbestos trust and, for trust claims not yet paid, the amount the claimant will receive as specified in the applicable trust governance documents. If multiple defendants are found liable for damages, the court shall distribute the setoff amount proportionately between the defendants, according to each defendant's liability. (LB 340)

Section 7: A new section of law which provides that the Asbestos Trust Claims Transparency Act applies to asbestos actions filed on or after the effective date of the bill. (LB 340)

Section 8: A new section of law which provides that sections 8 to 16 of this act shall be known as the Asbestos Claims Priorities and Over-Naming Reform Act. (LB 340)

Section 9: A new section of law that defines terms for purposes of the Asbestos Claims Priorities and Over-Naming Reform Act. (LB 340 as amended by AM 1283)

Section 10: A new section of law which provides that, within 60 days after filing an asbestos action, the claimant shall file and provide all parties with an affidavit specifying the evidence that provides the basis for each claim against each defendant. This section sets out the information that the claimant must include in the affidavit with specificity. A claimant has an ongoing duty to supplement the information required to be disclosed under this section. This section further provides that discovery shall not commence against a defendant in an asbestos action until the defendant's product or premises is specifically identified in the disclosures required under this section and that the court, on a defendant's motion, shall dismiss an asbestos action without prejudice as to any defendant whose product or premises is not specifically identified in the disclosures or as to the moving defendant or all defendants, as applicable, if the claimant fails to comply with this section. (LB 340 as amended by AM 1283)

Section 11: A new section of law which requires that, in addition to the affidavit required in section 10 of this act, within 30 days after filing an asbestos action related to a nonmalignant asbestos-related condition, the claimant shall file and provide all parties with a detailed narrative medical report signed by a qualified physician and accompanied by supporting test results constituting prima facie evidence the exposed person has a physical impairment for which exposure to asbestos was a substantial contributing factor. A defendant shall have a reasonable opportunity to challenge the adequacy of the prima facie evidence. The court shall dismiss the asbestos action without prejudice if the claimant fails to comply with the requirements of the Asbestos Claims Priorities and Over-Naming Reform Act or fails to present prima facie evidence required by the act. (LB 340 as amended by AM 1283)

Section 12: A new section of law which requires certain information that must be included in the detailed narrative medical report signed by a qualified physician with supporting test results in order to make the prima facie showing required by section 11 of this act in an asbestos action related to a nonmalignant asbestos-related condition. (LB 340)



Section 13: A new section of law which provides that evidence relating to the prima facie showings required under the Asbestos Claims Priorities and Over-Naming Reform Act does not create a presumption the exposed person has an asbestos-related impairment and is not conclusive of any defendant's liability. Evidence shall be offered at trial and the jury shall not be informed of the grant or denial of a motion to dismiss an asbestos action under the act, or the provisions of the act with respect to what constitutes a prima facie showing of asbestos impairment. This section also provides requirements for evidence relating to physical impairment offered in an asbestos action. (LB 340)

Section 14: A new section of law which provides that until a court enters an order determining that the exposed person has established prima facie evidence of impairment, an asbestos action is not subject to discovery, except for discovery related to establishing or challenging prima facie evidence. (LB 340)

Section 15: A new section of law which provides that a court may consolidate for trial any number and type of asbestos actions with the consent of all parties. Absent such consent, the court may consolidate for trial only those asbestos actions relating to the exposed person and members of his or her household. (LB 340)

Section 16: A new section of law which provides that the Asbestos Claims Priorities and Over-Naming Reform Act applies to asbestos actions filed on or after the effective date of this act. (LB 340)

Section 17: Defines terms for sections 17 to 21 of this act. As amended, this section defines "claimant" as a person seeking damages in a personal injury or wrongful death action. The bill, as introduced, defined "claimant" as a person seeking damages for medical expenses in a personal injury or wrongful death action. (LB 205 as amended by AM 1285)

Section 18: A new section of law which provides requirements for evidence offered to prove the amount of damages for past or future medical treatment or services in a personal injury or wrongful death action. Such evidence shall only be admissible as provided in this section. (LB 205 as amended by AM 1285)

Section 19: A new section of law which provides that in a personal injury or wrongful death action, evidence of past medical expenses actually paid may be offered by any party, as such evidence is relevant to economic and noneconomic damages. (LB 205 as amended by AM 1285)

Section 20: A new section of law that requires a claimant in a personal injury or wrongful death action who received medical care under a letter of protection, before asserting a claim for medical damages, to disclose: such letter of protection; an itemized billing of medical expenses; whether the health care provider sold the accounts receivable for the claimant's medical expenses to a factoring company or other third party and, if sold, the sale amount and name of the factoring company or third party; whether the claimant had health insurance at the time medical treatment or services were rendered and, if insured, the name of the insurer; and whether the claimant was referred for medical treatment or services under a letter of protection and, if so, the name of the person who made the referral. If the referral was by the claimant's attorney, the disclosure is permissible without violating attorney-client privilege. In such cases, whether there exists a financial relationship between the attorney and health care provider is relevant to the issue of bias of a testifying health care provider. (LB 205)

Section 21: A new section of law which limits the damages that may be recovered by a claimant in a personal injury or wrongful death action for the reasonable and necessary cost or value of past or future medical treatment or services. (LB 205 as amended by AM 1285)

Section 22: A new section of law which provides that the sum total amount recoverable per plaintiff for noneconomic damages against all defendants and other responsible persons in a civil action for personal injury or death involving a commercial motor vehicle (as defined in section 60-316) requiring a commercial driver's license is \$2,225,000. This



section also provides that, in a civil action subject to the damages limit in this section, the jury, or if there is no jury the court, shall first make a finding as to noneconomic damages without regard to the cap. If the amount of noneconomic damages exceeds the cap, the court shall reduce the award to comply with the cap. (LB 205 as amended by AM 1285)

Section 23: A new section of law that provides that, on the motion of a defendant in a civil action involving a commercial motor vehicle requiring a commercial driver's license, the trial court shall dismiss any claim of the defendant's direct negligence if the defendant stipulates that, at the time of the event that caused the damages that are the subject of the civil action, the person whose negligence is alleged to have caused the damages was the defendant's employee or independent contractor, and the person whose negligence is alleged to have caused the damages was acting within the course and scope of employment with the defendant or acting as an independent contractor of the defendant. If a defendant makes such stipulations with respect to an employee or independent contractor and the employee's or independent contractor's negligence is found to have caused or contributed to the damages, the defendant's liability in the civil action shall be adjudged solely on the basis of the legal doctrine known as respondeat superior. (LB 79)

Section 24: A new section of law which provides that an action for personal injury can only be brought within 2 years. The 2-year statute of limitations would apply to causes of action accruing on or after the effective date of this act. (LB 199)

Section 25: Amends section 25-224, which provides a 4-year statute of limitations for any action to recover damages based on injury allegedly resulting from exposure to asbestos, to add new language that provides that the period of limitations for an asbestos action as defined in the Asbestos Claims Priorities and Over-Naming Reform Act for any non-malignant asbestos-related condition that is not barred shall be tolled until the earlier of the date the exposed person receives or reasonably could have received a diagnosis of asbestos-related impairment sufficient to satisfy the prima facie evidence requirements of the act or the exposed person's date of death. (LB 340)

Section 26: Amends section 25-3301 to add section 28 of this act to the Nonrecourse Civil Litigation Act. (LB 199)

Section 27: Amends section 25-3302 to include claims presented at an administrative hearing in the definition of "legal claim" for the Nonrecourse Civil Litigation Act. This section, as amended, also amends the definition of "nonrecourse civil litigation funding" by adding that it includes funding provided to an attorney or law firm where the right to receive payment is contingent in any respect on the outcome of the consumer's legal claim. (LB 199 as amended by AM 1287)

Section 28: A new section of law that requires a consumer (as defined in section 25-3302) or the consumer's attorney, within 30 calendars after receipt of a written request, to disclose and deliver a copy of the contract for nonrecourse civil litigation funding to: each party to the legal claim; any court, agency, or tribunal in which the claim is pending; and any known person with a preexisting contractual obligation to indemnify or defend a party to the legal claim. The disclosure obligation required under this section is a continuing obligation and the consumer or the consumer's attorney must make a supplemental disclosure within 30 calendar days after entering into a new contract for nonrecourse civil litigation funding or amending an existing contract. The existence of a contract for nonrecourse civil litigation funding and all participants or parties to such contract are discoverable in any legal claim for which litigation funding is provided under the contract. (LB 199 as amended by AM 1287)

Section 29: Amends section 25-3309, which governs the registration and regulation of civil litigation funding companies, to provide that knowingly violating section 28 of this act is grounds for the Secretary of State to suspend, revoke, or refuse to renew a civil litigation funding company's certificate of registration. (LB 199)



Section 30: Amends section 60-6,273 to provide that evidence that a person was not wearing an occupant protection system or a three-point safety belt system at the time he or she was injured shall be admissible as evidence concerning mitigation of damages. Current law provides that such evidence may be admissible as evidence concerning mitigation of damages, except that it shall not reduce recovery for damages by more than 5 percent. (LB 132 as amended by AM 1289)

Section 31: The Revisor of Statutes shall assign section 24 of this act to Chapter 25, article 2. (LB 199)

Section 32: Repealer.

Carolyn Bosn, Chairperson

