

TESTIMONY
SENATE BILL 2206
SENATE JUDICIARY COMMITTEE
JANUARY 20, 2025

Madame Chair and members of the Senate Judiciary Committee, my name is Scott Meske. I appear on behalf of the North Dakota Motor Carriers Association (NDMCA) in support of SB 2206.

We appreciate Senator Conley and the cosponsors for bringing this bill forward and hope to provide the committee with what the bill does, is intended to do, and why it is important to North Dakota's trucking industry. I have conferred with Chairwoman Larson and asked that Committee action be delayed one week. We believe there are several changes that would make the bill clearer prior to final action, and we respectfully request the opportunity to bring those amendments forward.

As written, this bill has three objectives. Section 1 of the bill places into Century Code a limit of two years to bring an action against a motor carrier. Currently the statute of limitations is six years. It's important to note that the case does not have to be resolved within two years, merely must be filed. With a six-year statute of limitations, North Dakota stands as an outlier in the country in such cases. This bill inserts a new subsection to an already existing section relating to actions having two-year limitations.

Secondly, Section 2 of the bill places a limit of \$500,000 in a civil action for injury, death, or other loss resulting from the operation of a commercial motor vehicle that requires a CDL. This cap is for noneconomic damages only. Noneconomic damages are compensation for intangible losses that cannot easily be quantified by dollar amounts. Vehicle and property damage, loss of income are normally defined as economic damages, or items that can be quantified. The limit of \$500,000 mirrors the current North Dakota

Century Code in a medical malpractice case. Noneconomic damages are those commonly associated with pain and suffering, emotional distress as a result of an accident.

Why does this matter?

According to the US Chamber of Commerce's Institute for Legal Reform, the number of multi-million judgements are increasing rapidly. Such jury verdicts can be as high as \$10 million or more against a defendant. In North Dakota, the vast majority of our commercial carrier companies would be unable to sustain such a judgement and continue operating.

The point with this noneconomic damage limit is a) mirror what is already in the Code for a medical malpractice case, b) Allow the judicial system to render a fair and impartial decision in such accident cases, c) Provide some legal guard rails for companies and plaintiffs so we don't bankrupt firms and further drive up insurance rates.

You will hear opponents of the bill say there have been no such nuclear verdict awards in North Dakota. Most accident cases are resolved by the insurance providers and litigants to a satisfactory level. However, and not to call out any of my attorney friends but we live in a litigious society. They have a job to do, and we understand that. Finding fault in a significant motor vehicle accident isn't easy for any of the participants. No one wants to suffer through such a tragedy. As an industry though, it seems there are more and more efforts to "go after" a company, regardless of the finding of facts in a case.

A multi-million jury award may look good on someone's win column on a website or billboard. Insurance rates continuing to go up won't make up for any pain, suffering or loss; and it certainly will put in jeopardy the viability of a commercial motor carrier in North Dakota – the most freight dependent state in the country.

The last section of the bill relating to seat belt admissibility allows the jury to consider whether the victim's use of a seat belt in the accident contributed to the extent of injury. Since North Dakota has a primary seat belt law, we felt this was common sense. We want to ensure that evidence of seat belt use in an accident is important, and juries ought to be able to consider seat belt use when determining any monetary award in such cases.

This concludes my testimony. NDMCA urges a do pass on SB 2206, and I would be happy to answer any questions.

Following my testimony will be David Bauer from the American Trucking Association who will provide some national perspective on this issue. After David, Eric Grove from Magrum Trucking, Wally Keller from Jobbers, and Melissa Dixon of Dixon Insurance. Each of them has a different perspective on these issues for the benefit of the Committee.