

Senator Derrin R. Owens proposes the following substitute bill:

LIMITATIONS ON EMPLOYER LIABILITY

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill addresses liability of an employer.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses liability of an employer for negligently hiring, or failing to adequately supervise, an employee that has been previously convicted of an offense;
- ▶ creates a sunset date; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2020, Chapter 154

ENACTS:

78B-4-518, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63I-1-278** is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

(1) Section [78B-3-421](#), regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

(2) Section [78B-4-518](#), regarding the limitation on employer liability for an employee convicted of an offense, is repealed on July 1, 2025.

~~[(2)]~~ (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

~~[(3)]~~ (4) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

Section 2. Section **78B-4-518** is enacted to read:

Part 5. Particular Limitations on Liability

78B-4-518. Limitation on liability of employer for employee convicted of offense.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "employee" means an individual whom an employer hired for compensation to perform services.

(ii) "Employee" does not include an independent contractor as defined in Subsection [34A-2-103\(2\)\(b\)](#).

(b) "Employer" means a person, including the state and any political subdivision of the state, that employs one or more employees and is engaged in an industry or business related to:

(i) automotive repair and maintenance;

(ii) construction;

(iii) culinary arts;

(iv) manufacturing;

(v) oil, gas, or mining; or

(vi) transportation of freight, merchandise, or other property by a commercial vehicle.

(2) A cause of action may not be brought against an employer for negligently hiring, or for failing to adequately supervise, an employee based on evidence that the employee has been previously convicted in this state or in another jurisdiction of an offense.

57 (3) Subsection (2) does not preclude a cause of action for negligent hiring, or the
58 failure of an employer to provide adequate supervision, of an employee if the employer knew,
59 or should have known, about the employee's prior conviction and due to the employee's prior
60 conviction:

61 (a) the employer violated state or federal law by hiring or continuing to employ the
62 employee; or

63 (b) the employer's hiring or supervision of the employee constitutes willful misconduct
64 or gross negligence.

65 (4) The protections provided to an employer under this section do not apply in a cause
66 of action concerning the misuse of funds or property of a person other than the employer if:

67 (a) on the date that the employee was hired by the employer, the employee had been
68 previously convicted of an offense that includes fraud or the misuse of funds as an element of
69 the offense; and

70 (b) it was foreseeable that the position for which the employee was hired would
71 involve duties in managing funds or property.

72 (5) Section [63G-7-301](#) does not waive immunity provided under this section for an
73 employer that is a governmental entity or an employee of a governmental entity as those terms
74 are defined in Section [63G-7-102](#).

75 (6) This section does not:

76 (a) create a cause of action; or

77 (b) expand an existing cause of action.