

SENATE No. 1700

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to commercial motor vehicle safety..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 90F of the General Laws, as appearing in the 2006 Official Edition,
2 is hereby amended by inserting, after Section 16, the following section:—

3 Section 17. (a) As used in this section, the following words shall, unless the context
4 otherwise requires, have the following meanings:-

5 “Compensation,” the total cash remuneration received, including but not limited to salary,
6 wages, bonuses, and cash incentives.

7 “Load,” a weight or quantity of any article, material, liquid, or substance identified in
8 section 9 of chapter 148 of the General Laws that is resting on or supported by a commercial
9 motor vehicle.

10 “Retaliatory action,” any adverse employment action taken against an operator in the
11 terms and conditions of employment, including but not limited to loss of compensation,
12 discharge, suspension or demotion.

13 (b) Notwithstanding any general or special law to the contrary, no employer shall provide
14 compensation to an operator on the basis of the individual load transported, the number of miles
15 traveled, or the number of deliveries made. No operator shall be penalized in any way, nor shall
16 any retaliatory action be taken, including but not limited to non-payment of hours worked, as a
17 result of an operator receiving compensation on a per hour basis.

18 (c) A violation of this section shall be punishable by a fine of \$5,000. A second and
19 subsequent violation shall be punishable by a fine of \$10,000.

20 (d) The attorney general may make complaint or seek indictment against any person for a
21 violation of this section. Any operator claiming to be aggrieved by a violation of this section
22 may, at the expiration of 90 days after the filing of a complaint with the attorney general, or
23 sooner if the attorney general assents in writing, and within 3 years after the violation, institute
24 and prosecute in his own name and on his own behalf, or for himself and for others similarly
25 situated, a civil action for injunctive relief, for any damages incurred, and for any loss of wages
26 and other benefits. Any operator so aggrieved and who prevails in such an action shall be
27 awarded triple damages, as liquidated damages, for any loss of wages and other benefits; and the
28 employee shall also be awarded the costs of the litigation and reasonable attorneys' fees.