

509 N.W.2d 185
Court of Appeals of Minnesota.

Thomas Joseph IACONA, Respondent,
v.
Donald Bruce SCHRUPP, et al., Appellants.

No. C2-93-1215.

Dec. 7, 1993.

Plaintiff in personal injury action against truck driver sought to amend complaint to assert claim based on driver's alleged violation of federal motor carrier safety regulation by leaving scene of accident. The Dakota County District Court, [Daniel F. Foley, J.](#), granted motion to amend and certified questions. The Court of Appeals, [Davies, J.](#), held that: (1) there was not private right of action for violation of federal motor carrier safety regulations, and (2) even if such cause of action existed, absolute liability would not be imposed.

Certified questions answered in the negative.

West Headnotes (4)

- [1] **Action**
🔑 Statutory Rights of Action
Automobiles
🔑 Proceedings to Enforce or to Prevent Enforcement of Regulations
Automobiles
🔑 Grounds and Conditions Precedent in General

Statute creating private cause of action against motor carriers did not create such action for violation of statute requiring interstate motor carriers to comply with federal motor carrier safety regulations; latter statute was not enacted until 31 years after former statute, and legislative history of latter statute made it unlikely that legislature believed that its enactment would create private cause of action for violation of new provisions. [M.S.A. §§ 221.271, 221.605.](#)

[2 Cases that cite this headnote](#)

- [2] **Action**
🔑 Statutory Rights of Action

Statute cannot create private cause of action that legislature has not clearly expressed or implied.

[2 Cases that cite this headnote](#)

- [3] **Automobiles**
🔑 Requirements of Statutes and Ordinances in General

Even if statutes created private cause of action against interstate motor carriers for violations of federal motor carrier safety regulations, absolute liability could not be imposed for any such violation; there was no contention that statutes in question were enacted to protect particular class of vulnerable persons, and there was no language in either statute that placed entire burden of damages on violator. [M.S.A. §§ 221.271, 221.605.](#)

[1 Cases that cite this headnote](#)

- [4] **Negligence**
🔑 Violations of Statutes and Other Regulations

Absolute liability had been recognized in two circumstances: (1) with respect to negligence per se, "absolute liability" is created by statutes designed to protect certain classes of persons unable to protect themselves, and (2) absolute liability is created when language of statute demonstrates legislature's intent to place entire responsibility for injury on person violating statute.

[Cases that cite this headnote](#)

***186** *Syllabus by the Court*

Minn.Stat. §§ 221.605 and 221.271 should not be read together to create a private cause of action for violation of a federal motor carrier safety regulation.

Attorneys and Law Firms

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Robert J. McGuire, Barbara A. Burke, Cousineau, McGuire & Anderson, Chartered, Minneapolis, for appellants.

Considered and decided by RANDALL, P.J., and DAVIES and FLEMING, JJ.

OPINION

DAVIES, Judge.

In a negligence action, the trial court granted respondent's motion to amend his complaint to allege a private cause of action under Minn.Stat. §§ 221.605 and 221.271. The court determined that those statutory sections together impose absolute liability on an interstate motor carrier for violation of a federal motor carrier safety regulation. The court then certified two questions to this court:

1. Do Minn.Stat. §§ 221.605, subd. 1, and 221.271 and 169.025 create a private right of action where a violation of the Federal Act 49 C.F.R. § 392.20 occurs?
2. If so, does the doctrine of strict liability apply precluding a determination of causal negligence or comparative fault as to the original accident where Plaintiff claims damages flowing from the violation by an interstate trucker of the Federal Act by leaving the scene of the original accident?

We answer the certified questions in the negative.

FACTS

David Helmen and Thomas Iacona, who both had been drinking heavily, were involved in a single-car accident. After the accident, Helmen flagged down David Schrupp, an employee of Service Oil of Prinsberg, Inc., for help. Schrupp stopped his tanker a few blocks beyond the accident scene, then backed up on the shoulder of the road to reach the two men.

As Schrupp backed up, his tanker hit Helmen, then, when Iacona told Schrupp what had happened, Schrupp panicked and left the scene. By leaving the scene, Schrupp violated 49 C.F.R. § 392.40.

Iacona brought this action against Schrupp and his employer, alleging that Schrupp caused him severe emotional distress when he ran over Helmen and then left the scene. On the day of trial, the court granted Iacona's motion to amend the complaint to allege a private cause of action under Minn.Stat. §§ 221.605 and 221.271, and 49 C.F.R. § 392.40. Under Iacona's interpretation, application of these provisions in combination renders Schrupp absolutely liable for leaving the scene of the accident, thereby making comparative fault inapplicable and making inadmissible evidence of his and Helmen's alcohol concentration at the time of the accident.

Schrupp moved for dismissal of the alleged statutory cause of action, contending that it *187 failed to state a claim upon which relief could be granted. The trial court denied this motion to dismiss, but found that "there may be doubt as to the Court's interpretation of the plaintiff's statutory cause of action." The court then certified the two questions to this court.

ISSUES

- I. Do Minn.Stat. §§ 221.605 and 221.271 together create a private cause of action for a violation of a federal motor carrier regulation?
- II. If so, is absolute liability imposed on the violator, precluding application of comparative fault principles?

ANALYSIS

I.

^[1] Minn.Stat. § 221.605 (1992) requires that interstate

motor carriers comply with federal motor carrier safety regulations. Under [Minn.Stat. § 221.271 \(1992\)](#),

[a]ny person which shall do or cause to be done any unlawful act as herein provided, or fail to perform any duty prescribed, or violate any duly established order, rule or directive of the commissioner or board, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, *shall be liable in damages* to any person injured thereby, and such person, if the person recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

(Emphasis added.) Iacona contends that, combined with [section 221.605](#), the language “shall be liable in damages” in [section 221.271](#) creates a private cause of action in favor of a person injured by an interstate motor carrier who violates [49 C.F.R. § 392.40](#) by leaving the scene of an accident.¹

^[2] A statute cannot create a private cause of action that the legislature has not clearly expressed or implied. [Bruegger v. Faribault County Sheriff's Dep't](#), 497 N.W.2d 260, 262 (Minn.1993). Iacona contends that the language of [section 221.271](#), creating a private cause of action, applies to all of chapter 221, including provisions later enacted, so that a violation of any section of the chapter would lead to a private cause of action.

The legislature enacted [section 221.271](#) in 1957. 1957 Minn.Laws Ex.Sess. ch. 17, § 27. But [section 221.605](#) was not enacted until 31 years later. 1988 Minn.Laws ch. 544, § 25. The 1988 act appears to be in the nature of a department bill, including a mix of routine substantive provisions and housekeeping amendments to transportation law. Thus, the legislature more than likely did not contemplate the possibility that its 1988 enactment would have the significant private law consequence urged here, that is, creating private causes of action for violations of the new provisions. We decline to so hold. “The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature.” [Minn.Stat. § 645.16 \(1992\)](#). Further, the title of the 1988 act gave no hint of such a consequence.

Finally, [section 221.605](#) is set forth in a part of chapter 221 that addresses only interstate operations, creating

further separation from [section 221.271](#).

We conclude that the legislature did not intend to create a private cause of action for a violation of [section 221.605](#), and thus answer the first certified question in the negative.

II.

^[3] Even if [sections 221.605](#) and [221.271](#) in combination created a cause of action for violation of a federal regulation, absolute liability would not be imposed.²

*188 ^[4] Absolute liability has been recognized in two circumstances. First, with respect to negligence per se, absolute liability is created by statutes designed to protect certain classes of persons unable to protect themselves. [Seim v. Garavalia](#), 306 N.W.2d 806, 810 (Minn.1981); [Dart v. Pure Oil Co.](#), 223 Minn. 526, 535, 27 N.W.2d 555, 560 (Minn.1947). Such statutes include child labor statutes, statutes for the protection of intoxicated persons, and statutes prohibiting sale of dangerous articles to minors. [Zerby v. Warren](#), 297 Minn. 134, 210 N.W.2d 58, 62 (1973).

Second, absolute liability is created when the language of a statute demonstrates the legislature's intent to place the entire responsibility for injury on the person violating the statute. [Seim](#), 306 N.W.2d at 812.

Iacona does not contend that [sections 221.605](#) and [221.271](#) were enacted to protect a particular class of vulnerable persons. And, unlike the dog bite statute at issue in [Seim](#), there is no language in either [section 221.605](#) or [section 221.271](#) that places the entire burden of damages on a person violating the statute. Even if the language “shall be liable in damages” in [section 221.271](#) placed some liability on a violator of [section 221.605](#), that liability would be only strict liability, and comparative fault principles would still apply. [Seim](#), 306 N.W.2d at 811.

DECISION

We answer question 1: In enacting [Minn.Stat. § 221.605](#), the legislature did not intend it to relate back to [section 221.271](#) so as to create a private cause of action for violation of a federal motor carrier safety standard.

We answer question 2: Even if [sections 221.605](#) and

221.271 created a private cause of action, absolute liability would not be imposed, and comparative fault principles would apply.

All Citations

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Certified questions answered in the negative.

Footnotes

- * Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to [Minn. Const. art. VI, § 10](#).
- 1 The trial court also referenced section 169.025 in the certified question. [Section 169.025](#) provides that if there is a conflict between a federal motor carrier safety regulation and a state statute, the stricter federal rule prevails. Because there is no conflict between state and federal provisions in this case, [section 169.025](#) is inapplicable.
- 2 Although the trial court phrased the certified question in terms of strict liability, it is clear from the record and the parties' submissions that we are concerned here with absolute liability. While strict liability, generally does not preclude application of comparative fault principles, absolute liability does. [Seim v. Garavalia](#), 306 N.W.2d 806, 811-12 (Minn.1981).