A bill to be entitled
An act relating to motor vehicle dealers; providing
legislative findings; amending s. 324.021, F.S.;
revising the definition of the term "rental company"
to include motor vehicle dealers without limitation
and their leasing and rental affiliates, for the
purpose of minimum insurance coverage requirements;
providing that motor vehicle dealers and their
affiliates are immune to causes of action and not
vicariously liable for harm to persons or property
under certain circumstances; providing that motor
vehicle dealers and their affiliates are not adjudged
liable in civil proceedings or guilty in criminal
proceedings under certain circumstances; providing
exceptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. The Legislature finds that although the federal
Graves Amendment, 49 U.S.C. s. 30106, has eliminated vicarious
liability claims against motor vehicle rental and leasing
companies for damages or injuries caused by customers during a
rental or lease, motor vehicle dealers and their leasing and
rental affiliates in the state are still subjected to suits for
damages or injuries caused by customers during the customers'
operation of temporary replacement vehicles owned, but not being operated, by the motor vehicle dealers and their leasing and rental affiliates. Absent negligence or criminal conduct by a motor vehicle dealer or its leasing or rental affiliates, the Legislature finds that subjecting motor vehicle dealers and their leasing and rental affiliates to this vicarious liability under the dangerous instrumentality doctrine is both unfair and economically disadvantageous to motor vehicle dealers, their leasing and rental affiliates, and state consumers in that it causes dealers and their affiliates to suffer higher insurance costs, which are then passed on to consumers. Vicarious liability in such cases often serves to relieve the actual tortfeasor from liability.

Section 2. Paragraph (c) of subsection (9) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(9) OWNER; OWNER/LESSOR.—

(c) Application.—

1. The limits on liability in subparagraphs (b)2. and 3. do not apply to an owner of motor vehicles that are used for commercial activity in the owner's ordinary course of business,
other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company"
includes:

a. only An entity that is engaged in the business of
renting or leasing motor vehicles to the general public and that
rents or leases a majority of its motor vehicles to persons with
no direct or indirect affiliation with the rental company.

b. The term also includes A motor vehicle dealer, or a
motor vehicle dealer's leasing or rental affiliate, that
provides temporary replacement vehicles to its customers for up
to 10 days. The term "rental company" also includes:

c. A related rental or leasing company that is a
subsidiary of the same parent company as that of the renting or
leasing company that rented or leased the vehicle.

d. The holder of a motor vehicle title or an equity
interest in a motor vehicle title if the title or equity
interest is held pursuant to or to facilitate an asset-backed
securitization of a fleet of motor vehicles used solely in the
business of renting or leasing motor vehicles to the general
public and under the dominion and control of a rental company,
as described in this subparagraph, in the operation of such
rental company's business.

2. Furthermore, With respect to commercial motor vehicles
as defined in s. 627.732, the limits on liability in
subparagraphs (b)2. and 3. do not apply if, at the time of the
incident, the commercial motor vehicle is being used in the
transportation of materials found to be hazardous for the
purposes of the Hazardous Materials Transportation Authorization
Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
required pursuant to such act to carry placards warning others
of the hazardous cargo, unless at the time of lease or rental
either:

a. The lessee indicates in writing that the vehicle will
not be used to transport materials found to be hazardous for the
purposes of the Hazardous Materials Transportation Authorization
Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

b. The lessee or other operator of the commercial motor
vehicle has in effect insurance with limits of at least
$5,000,000 combined property damage and bodily injury liability.

3. A motor vehicle dealer, or a motor vehicle dealer's
leasing or rental affiliate, that provides a temporary
replacement vehicle at no charge or at a reasonable daily charge
to a service customer whose vehicle is being repaired, serviced,
or adjusted by the motor vehicle dealer is immune from any cause
of action and is not liable, vicariously or otherwise, under
general law by reason of being the owner of the temporary
replacement vehicle, for harm to persons or property that arises
out of the ownership, use, operation, control, or possession of
the temporary replacement vehicle during the period the
temporary replacement vehicle is in the use, operation, control,
or possession of the motor vehicle dealer's service customer, or such customer's designee, if there is no negligence or criminal wrongdoing on the part of the motor vehicle owner, or its leasing or rental affiliate. For purposes of this section, and notwithstanding any other provision of general law or existing case law, a motor vehicle dealer, or a motor vehicle dealer's leasing or rental affiliate, that gives possession, control, or use of a temporary replacement vehicle to a motor vehicle dealer's service customer may not be adjudged liable in a civil proceeding, or guilty in a criminal proceeding, if the motor vehicle dealer or the motor vehicle dealer's leasing or rental affiliate obtains from the service customer or the customer's designee a copy of the customer's driver license and information on the required minimum motor vehicle insurance coverage in the state. Any subsequent determination that the driver license or insurance information provided to the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, was in any way false, fraudulent, misleading, nonexistent, canceled, not in effect, or invalid does not alter or diminish the protections provided by this section, unless the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, had actual knowledge thereof at the time possession of the temporary replacement vehicle was provided to the customer.

Section 3. This act shall take effect July 1, 2020.