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 exclude certain motor vehicle dealers, for the
purpose of determining minimum insurance coverage
requirements; providing that specified motor vehicle
dealers and their affiliates are immune to causes of
action and not vicariously or directly liable for harm
to persons or property under certain circumstances;
providing that specified motor vehicle dealers and
their affiliates are not adjudged liable in civil
proceedings under certain circumstances; providing
applicability; providing an effective date.

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

Section 1. The Legislature finds that, absent negligence
or criminal conduct by a motor vehicle dealer, or its leasing or
rental affiliates, subjecting motor vehicle dealers and their
leasing and rental affiliates to vicarious liability under the
dangerous instrumentality doctrine when a temporary replacement
vehicle is provided to a consumer is both unfair and
economically disadvantageous in that it causes dealers and their
affiliates to suffer higher insurance costs, which are then
passed on to consumers. Additionally, application of the vicarious liability doctrine 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 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. The term also includes a motor vehicle dealer that provides temporary replacement vehicles to its customers for up to 10 days. The term "rental company" also includes:

a. A related rental or leasing company that is a
51 subsidiary of the same parent company as that of the renting or
52 leasing company that rented or leased the vehicle.
53   b. The holder of a motor vehicle title or an equity
54 interest in a motor vehicle title if the title or equity
55 interest is held pursuant to or to facilitate an asset-backed
56 securitization of a fleet of motor vehicles used solely in the
57 business of renting or leasing motor vehicles to the general
58 public and under the dominion and control of a rental company,
59 as described in this subparagraph, in the operation of such
60 rental company's business.
61 2. Furthermore, with respect to commercial motor vehicles
62 as defined in s. 627.732, the limits on liability in
63 subparagraphs (b)2. and 3. do not apply if, at the time of the
64 incident, the commercial motor vehicle is being used in the
65 transportation of materials found to be hazardous for the
66 purposes of the Hazardous Materials Transportation Authorization
67 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
68 required pursuant to such act to carry placards warning others
69 of the hazardous cargo, unless at the time of lease or rental
70 either:
71   a. The lessee indicates in writing that the vehicle will
72 not be used to transport materials found to be hazardous for the
73 purposes of the Hazardous Materials Transportation Authorization
74 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or
75   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. 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 held for repair, service, or adjustment by the motor vehicle dealer is immune from any cause of action and is not liable, vicariously or directly, under general law solely by reason of being the owner of the temporary replacement vehicle for harm to persons or property that arises out of the use, or operation, of the temporary replacement vehicle by any person during the period the temporary replacement vehicle has been entrusted to the motor vehicle dealer's service customer if there is no negligence or criminal wrongdoing on the part of the motor vehicle owner, or its leasing or rental affiliate.

b. For purposes of this section, and notwithstanding any other provision of general 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 absent negligence or criminal wrongdoing on the part of the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, if the motor vehicle dealer or the motor vehicle dealer's leasing or rental

CODING: Words stricken are deletions; words underlined are additions.
affiliate executes a written rental or use agreement and obtains from the person receiving the temporary replacement vehicle a copy of the person's driver license and insurance information reflecting at least the minimum motor vehicle insurance coverage required 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.

c. For purposes of this subparagraph, the term "service customer" does not include an agent or a principal of a motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate, and does not include an employee of a motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate unless the employee was provided a temporary replacement vehicle:

(I) While the employee's personal vehicle was being held for repair, service, or adjustment by the motor vehicle dealer;

(II) In the same manner as other customers who are provided a temporary replacement vehicle while the customer's vehicle is being held for repair, service, or adjustment; and
(III) The employee was not acting within the course and scope of their employment.

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