

By Representative Bitner

1                                   A bill to be entitled  
2           An act relating to waiver of sovereign immunity  
3           in tort actions; amending s. 768.28, F.S.;  
4           prescribing time for submitting notice of a  
5           claim to the Department of Insurance;  
6           prohibiting actions against the state or its  
7           agencies or subdivisions by persons who are  
8           operating a motor vehicle while under the  
9           influence of drugs or alcohol, by passengers in  
10          a motor vehicle that is operated by a person  
11          who is under the influence of drugs or alcohol,  
12          and by persons using property without  
13          permission or in an unintended manner;  
14          providing an effective date.

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

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18           Section 1. Paragraph (a) of subsection (6) of section  
19   768.28, Florida Statutes, 1996 Supplement, is amended and  
20   subsections (20) and (21) are added to that section to read:

21           768.28 Waiver of sovereign immunity in tort actions;  
22   recovery limits; limitation on attorney fees; statute of  
23   limitations; exclusions; indemnification; risk management  
24   programs.--

25           (6)(a) An action may not be instituted on a claim  
26   against the state or one of its agencies or subdivisions  
27   unless the claimant presents the claim in writing to the  
28   appropriate agency, and also, except as to any claim against a  
29   municipality or the Spaceport Florida Authority, presents such  
30   claim in writing to the Department of Insurance, within 180  
31   days ~~3 years~~ after such claim accrues and the Department of

1 Insurance or the appropriate agency denies the claim in  
2 writing; except that, if such claim is for contribution  
3 pursuant to s. 768.31, it must be so presented within 6 months  
4 after the judgment against the tortfeasor seeking contribution  
5 has become final by lapse of time for appeal or after  
6 appellate review or, if there is no such judgment, within 6  
7 months after the tortfeasor seeking contribution has either  
8 discharged the common liability by payment or agreed, while  
9 the action is pending against him, to discharge the common  
10 liability.

11 (20)(a) An action may not be brought against the state  
12 or any of its agencies or subdivisions for civil damages for  
13 wrongful death, personal injury, or injury to property by a  
14 person who is driving or is in the actual physical control of  
15 a motor vehicle on any street, road, highway, or other  
16 property used or intended to be used by motor vehicles and  
17 who:

18 1. Is under the influence of an alcoholic beverage,  
19 any chemical substance specified in s. 877.111, or any  
20 substance controlled under chapter 893 to the extent that such  
21 person's normal faculties are impaired; or

22 2. Has a blood or breath alcohol level of 0.08 percent  
23 or higher.

24 (b) An action may not be brought against the state or  
25 any of its agencies or subdivisions for civil damages for  
26 wrongful death, personal injury, or injury to property by a  
27 passenger in a motor vehicle that is being operated by a  
28 person who is driving or is in the actual physical control of  
29 a motor vehicle on any street, road, highway, or other  
30 property used or intended to be used by motor vehicles and  
31 who:

