

By the Committee on Judiciary and Senator Latvala

308-1639A-99

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 324.021, F.S.; providing a limitation on the
4 liability for bodily injury, property, and
5 economic damages for certain lessors and owners
6 of motor vehicles; providing for applicability;
7 amending s. 95.031; providing a statute of
8 repose of 18 years; providing for severability;
9 providing an effective date.

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

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13 Section 1. Paragraph (b) of subsection (9) of section
14 324.021, Florida Statutes, is amended, and paragraph (c) is
15 added to that subsection, to read:

16 324.021 Definitions; minimum insurance required.--The
17 following words and phrases when used in this chapter shall,
18 for the purpose of this chapter, have the meanings
19 respectively ascribed to them in this section, except in those
20 instances where the context clearly indicates a different
21 meaning:

22 (9) OWNER; OWNER/LESSOR.--

23 (b) Owner/lessor.--Notwithstanding any other provision
24 of the Florida Statutes or existing case law:7

25 1. The lessor, under an agreement to lease a motor
26 vehicle for 1 year or longer which requires the lessee to
27 obtain insurance acceptable to the lessor which contains
28 limits not less than \$100,000/\$300,000 bodily injury liability
29 and \$50,000 property damage liability or not less than
30 \$500,000 combined property damage liability and bodily injury
31 liability, shall not be deemed the owner of said motor vehicle

1 for the purpose of determining financial responsibility for
2 the operation of said motor vehicle or for the acts of the
3 operator in connection therewith; further, this subparagraph
4 ~~paragraph~~ shall be applicable so long as the insurance meeting
5 these requirements is in effect. The insurance meeting such
6 requirements may be obtained by the lessor or lessee,
7 provided, if such insurance is obtained by the lessor, the
8 combined coverage for bodily injury liability and property
9 damage liability shall contain limits of not less than \$1
10 million and may be provided by a lessor's blanket policy.

11 2. The lessor, under an agreement to rent or lease a
12 motor vehicle for a period of less than 1 year, shall be
13 deemed the owner of the motor vehicle for the purpose of
14 determining liability for the operation of the vehicle or the
15 acts of the operator in connection therewith only up to
16 \$100,000 per person and up to \$300,000 per incident for bodily
17 injury and up to \$50,000 for property damage. If the lessee or
18 the operator of the motor vehicle is uninsured or has any
19 insurance with limits less than \$500,000 combined property
20 damage and bodily injury liability, the lessor shall be liable
21 for up to an additional \$500,000 in economic damages only
22 arising out of the use of the motor vehicle. The additional
23 specified liability of the lessor for economic damages shall
24 be reduced by amounts actually recovered from the lessee, from
25 the operator, and from any insurance or self insurance
26 covering the lessee or operator. Nothing in this subparagraph
27 shall be construed to affect the liability of the lessor for
28 its own negligence.

29 3. The owner who is a natural person and loans a motor
30 vehicle to any permissive user other than a relative residing
31 in the same household as defined in s. 627.732(4) shall be

1 liable for the operation of the vehicle or the acts of the
2 operator in connection therewith only up to \$100,000 per
3 person and up to \$300,000 per incident for bodily injury and
4 up to \$50,000 for property damage. If the permissive user of
5 the motor vehicle is uninsured or has any insurance with
6 limits less than \$500,000 combined property damage and bodily
7 injury liability, the owner shall be liable for up to an
8 additional \$500,000 in economic damages only arising out of
9 the use of the motor vehicle. The additional specified
10 liability of the owner for economic damages shall be reduced
11 by amounts actually recovered from the permissive user and
12 from any insurance or self-insurance covering the permissive
13 user. Nothing in this subparagraph shall be construed to
14 affect the liability of the owner for his or her own
15 negligence.

16 (c) Application.--The limits on liability in
17 subparagraphs (b)2. and 3. do not apply to an owner of motor
18 vehicles that are used for commercial activity in the owner's
19 ordinary course of business, other than a rental company that
20 rents or leases motor vehicles. For purposes of this
21 paragraph, the term "rental company" includes only an entity
22 that is engaged in the business of renting or leasing motor
23 vehicles to the general public and that rents or leases a
24 majority of its motor vehicles to persons with no direct or
25 indirect affiliation with the rental company. The term also
26 includes a motor vehicle dealer that provides temporary
27 replacement vehicles to its customers for up to 10 days.
28 Furthermore, the limits on liability in subparagraphs (b)2.
29 and 3. do not apply to a motor vehicle that has a gross
30 vehicle weight of greater than 26,000 pounds.

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1 Section 2. Subsection (2) of section 95.031, Florida
2 Statutes, is amended to read:

3 95.031 Computation of time.--Except as provided in
4 subsection (2) and in s. 95.051 and elsewhere in these
5 statutes, the time within which an action shall be begun under
6 any statute of limitations runs from the time the cause of
7 action accrues.

8 (2)(a) An action ~~Actions~~ for ~~products liability and~~
9 fraud under s. 95.11(3) must be begun within the period
10 prescribed in this chapter, with the period running from the
11 time the facts giving rise to the cause of action were
12 discovered or should have been discovered with the exercise of
13 due diligence, instead of running from any date prescribed
14 elsewhere in s. 95.11(3), but in any event an action for fraud
15 under s. 95.11(3) must be begun within 12 years after the date
16 of the commission of the alleged fraud, regardless of the date
17 the fraud was or should have been discovered.

18 (b) An action for products liability under s. 95.11(3)
19 must be begun within the period prescribed in this chapter,
20 with the period running from the date that the facts giving
21 rise to the cause of action were discovered, or should have
22 been discovered with the exercise of due diligence, rather
23 than running from any other date prescribed elsewhere in s.
24 95.11(3), but in no event may an action for products liability
25 under s. 95.11(3) be commenced unless the complaint is served
26 and filed within 18 years after the date of delivery of the
27 product to its first purchaser or lessee who was not engaged
28 in the business of selling or leasing the product or of using
29 the product as a component in the manufacture of another
30 product, regardless of the date that the defect in the product
31 was or should have been discovered. However, the 18-year

1 limitation on filing an action for products liability does not
2 apply if the manufacturer knew of a defect in the product and
3 concealed or attempted to conceal this defect. In addition,
4 the 18-year limitation does not apply if the claimant was
5 exposed to or used the product within the 18-year period, but
6 an injury caused by such exposure or use did not manifest
7 itself until after the 18-year period.

8 Section 3. Any action for products liability which
9 would not have been barred under section 95.031(2), Florida
10 Statutes, prior to the amendments to that section made by this
11 act may be commenced before July 1, 2003, and, if it is not
12 commenced by that date and is barred by the amendments to
13 section 95.031(2), Florida Statutes, made by this act, it
14 shall be barred.

15 Section 4. If any provision of this act or the
16 application thereof to any person or circumstance is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the act which can be given effect without the
19 invalid provision or application, and to this end the
20 provisions of this act are declared severable.

21 Section 5. This act shall take effect July 1, 1999.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 236
4 Revises s. 324.021(9)(c), F.S., to exclude motor vehicles with
5 a gross vehicle weight greater than 26,000 pounds from the
6 limits on vicarious liability.
7 Amends s. 95.031, F.S. to include a statute of repose for
8 products liability actions. Actions based on products
9 liability must be brought within 18 years from the date of
10 delivery of the completed product to the original purchaser or
11 lessee, regardless of the date on which the defect in the
12 product was or should have been discovered. The statute of
13 repose would not apply when the claimant's injury did not
14 manifest itself until after the 18 year period expired. The
15 statute also would not apply if the manufacturer knew of a
16 defect and concealed, or attempted to conceal, the defect. The
17 statute contains a savings clause allowing products liability
18 actions that would not have otherwise been barred to be
19 brought before July 1, 2003.
20 Adds a severability clause.
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