

Bill No. CS for SB 376

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator McKay moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 10, line 14,		
15			
16	insert:		
17	Section 6. Section 768.098, Florida Statutes, is		
18	created to read:		
19	768.098 Limitation of liability for employee		
20	leasing.--		
21	<u>(1) An employer in a joint employment relationship</u>		
22	<u>pursuant to s. 468.520 shall not be liable for the tortious</u>		
23	<u>actions of another employer in that relationship, or for the</u>		
24	<u>tortious actions of any jointly employed employee under that</u>		
25	<u>relationship, provided that:</u>		
26	<u>(a) The employer seeking to avoid liability pursuant</u>		
27	<u>to this section did not authorize or direct the tortious</u>		
28	<u>action;</u>		
29	<u>(b) The employer seeking to avoid liability pursuant</u>		
30	<u>to this section did not have actual knowledge of the tortious</u>		
31	<u>conduct and fail to take appropriate action;</u>		

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1 (c) The employer seeking to avoid liability pursuant
2 to this section did not have actual control over the day to
3 day job duties of the jointly employed employee who has
4 committed a tortious act nor actual control over the portion
5 of a job site at which or from which the tortious conduct
6 arose or at which and from which a jointly employed employee
7 worked, and that said control was assigned to the other
8 employer under the contract;

9 (d) The employer seeking to avoid liability pursuant
10 to this section is expressly absolved in the written contract
11 forming the joint employment relationship of control over the
12 day to day job duties of the jointly employed employee who has
13 committed a tortious act, and of the portion of the job site
14 at which or from which the tortious conduct arose or at which
15 and from which the jointly employed employee worked, and that
16 said control was assigned to the other employer under the
17 contract; and

18 (e) Complaints, allegations or incidents of any
19 tortious misconduct or workplace safety violations, regardless
20 of the source, are required to be reported to the employer
21 seeking to avoid liability pursuant to this section by all
22 other joint employers under the written contract forming the
23 joint employment relationship, and that the employer seeking
24 to avoid liability pursuant to this section did not fail to
25 take appropriate action as a result of receiving any such
26 report related to a jointly employed employee who has
27 committed a tortious act.

28 (2) An employer seeking to avoid liability pursuant to
29 this section shall not be presumed to have actual control over
30 the day to day job duties of the jointly employed employee who
31 has committed a tortious act, nor actual control over the

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1 portion of a job site at which or from which that employee
2 worked, based solely upon the fact that the employee at issue
3 is a leased employee.

4 (3) This section shall not alter any responsibilities
5 of the joint employer who has actual control over the day to
6 day job duties of the jointly employed employee and who has
7 actual control over the portion of a job site at which or from
8 which the employee is employed, which arises from s. 768.096.

9 (Renumber subsequent sections.)

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12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 On page 2, line 1, after the semicolon

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16 insert:

17 creating s. 768.098, F.S.; providing a limitation of liability
18 for employee leasing under specified conditions;

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