

By Senator Klein

28-102A-00

1 A bill to be entitled
2 An act relating to the Department of
3 Transportation; providing for the relief of
4 Russell Allen; providing for an appropriation
5 to compensate him for injuries sustained as a
6 result of the negligence of the department;
7 providing an effective date.

8
9 WHEREAS, on the morning of March 27, 1997, 37-year-old
10 Russell Allen was operating a motor scooter in West Palm
11 Beach, traveling west on Pershing Way, and

12 WHEREAS, while riding his motor scooter in a lawful
13 manner, Russell Allen stopped at the stop sign at the
14 intersection of U.S. 1 and then turned to proceed south on
15 U.S. 1, which was marked as a one-way street going south, and

16 WHEREAS, while Russell Allen was making his turn,
17 another vehicle, which was traveling illegally in the wrong
18 direction on the one-way street, struck Russell Allen's motor
19 scooter at a speed of approximately 35 mph, and

20 WHEREAS, the impact of the crash threw Russell Allen
21 onto the hood, windshield, and top of the car, from which he
22 was then thrown 20 feet, and

23 WHEREAS, although Russell Allen was wearing his helmet,
24 he still suffered extensive injuries, including a closed head
25 injury, a ruptured spleen, numerous broken bones throughout
26 his chest, and a severe spinal fracture that has caused him to
27 be permanently paralyzed from the mid-chest down, and

28 WHEREAS, not only is Russell Allen a permanent
29 paraplegic with no sexual functioning and no hope of having a
30 family of his own, but he also suffers from debilitating pain
31 and must take the strongest narcotic pain relievers daily, he

1 has measurable cognitive deficits as a result of his closed
2 head injury, he will require several future operations, and he
3 will require attendant care for the rest of his life, and

4 WHEREAS, although Russell Allen was an athletic and
5 well-liked person who was involved in church and community
6 activities before the accident, he is now clinically
7 depressed, has lost his network of friends, is unable to work,
8 and cannot contribute to his community, and

9 WHEREAS, Russell Allen's past medical expenses exceed
10 \$300,000, and he will require continual supervision from
11 several medical specialists for the rest of his life, and

12 WHEREAS, experts have concluded that, although Russell
13 Allen has a normal life expectancy, he is unemployable and
14 suffers future economic losses in the amount of \$5,023,239,
15 which includes a loss of earning capacity of \$1,265,000, and

16 WHEREAS, there is no dispute that the Department of
17 Transportation was responsible for the signage on U.S. 1 at or
18 near the location of the accident and that, in 1989, the
19 department changed a 1.2-mile strip of U.S. 1 from a two-lane
20 road going north and south to a one-way road heading south
21 only, and

22 WHEREAS, when the two-way road was changed to a one-way
23 road, no barriers or other devices were erected at the
24 commencement of the new 1.2-mile one-way strip in order to
25 prohibit motorists previously traveling north on U.S. 1 from
26 entering the southbound lane, and

27 WHEREAS, no prior signs, rumble strips, or other
28 warnings were in place to alert motorists heading north on
29 U.S. 1 that the two-way road on which they were driving was
30 about to become a one-way road heading south, and

31

1 WHEREAS, the intersection markings were totally
2 inadequate and failed to warn motorists that the two-way road
3 was changing to a one-way road, and

4 WHEREAS, although a "do not enter" sign was erected at
5 the intersection by the Department of Transportation, the
6 department's own design specifications for the placement of
7 the sign were not followed, which resulted in confusion and
8 allowed drivers to travel the wrong way, and

9 WHEREAS, a lawsuit was filed against the Department of
10 Transportation which resulted in a 2-week jury trial that
11 concluded on July 21, 1999, and

12 WHEREAS, during the trial, numerous local residents and
13 business owners testified that for many, many years they had
14 observed motor vehicles going the wrong way on U.S. 1 and
15 either crashing or swerving to avoid collisions, sometimes at
16 a rate of three to four wrong-way vehicles an hour, and

17 WHEREAS, the officer who investigated this accident was
18 nearly struck going south when a vehicle came through the
19 intersection going north, and

20 WHEREAS, at the conclusion of the trial, the jury
21 entered a verdict in the total amount of \$7 million,
22 determining that the Department of Transportation was 67 per
23 cent at fault for the accident and that the motorist who was
24 going the wrong way was 33 percent at fault, and

25 WHEREAS, on July 21, 1999, a final judgment was entered
26 in favor of Russell Allen against the Department of
27 Transportation in the amount of \$4,690,000, and

28 WHEREAS, after the department has paid \$100,000
29 pursuant to the limits on waiver of sovereign immunity set
30 forth in section 768.28, Florida Statutes, the remaining
31

1 excess-judgment amount owed will be \$4,590,000, NOW,
2 THEREFORE,

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. The facts stated in the preamble to this
7 act are found and declared to be true.

8 Section 2. The sum of \$4,590,000 is appropriated out
9 of funds in the State Treasury to the credit of the Department
10 of Transportation which are not otherwise appropriated to be
11 paid to Russell Allen as relief for his losses.

12 Section 3. The Comptroller is directed to draw a
13 warrant in favor of Russell Allen in the sum of \$4,590,000
14 upon funds in the State Treasury to the credit of the
15 Department of Transportation, and the State Treasurer is
16 directed to pay the same out of such funds. After payment of
17 attorney's fees and costs, the balance of the moneys shall be
18 used for the future medical, rehabilitative, and life-care
19 needs of Russell Allen.

20 Section 4. This act shall take effect upon becoming a
21 law.

22
23 *****

24 SENATE SUMMARY

25 Providing an appropriation for the relief of Russell
26 Allen for injuries and damages sustained as a result of
the negligence of the Department of Transportation.

27
28
29
30
31