

By Senator Klein

28-27A-01

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.

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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

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

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

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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 to be paid to Russell Allen as relief for  
11 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.

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24 SENATE SUMMARY

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

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