

Bill No. CS for SB 956

Amendment No. ____ Barcode 393548

CHAMBER ACTION

Senate

House

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Senators Jones, Lawson, Dockery and Constantine moved the following amendment:

Senate Amendment (with title amendment)

On page 3, line 4, through
page 4, line 7, delete those lines

and insert:

Section 3. Subsection (3) of section 376.3079, Florida Statutes, is amended to read:

376.3079 Third-party liability insurance.--

(3) For purposes of this section and s. 376.3078, the term:

(a) "Third-party liability" means the insured's liability, other than for site rehabilitation costs and property damage as applied to sites utilizing the provisions of s. 378.3078(3) and (11), for bodily injury or property damage caused by an incident of contamination related to the operation of a drycleaning facility or wholesale supply facility.

(b) "Incident" means any sudden or gradual discharge

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1 of drycleaning solvents arising from the operation of a
2 drycleaning facility or wholesale supply facility that results
3 in a need for site rehabilitation or results in bodily injury
4 or property damage neither expected nor intended by the
5 drycleaning facility owner or operator or wholesale supply
6 facility.

7 Section 4. Subsection (6) of section 376.308, Florida
8 Statutes, is amended to read:

9 376.308 Liabilities and defenses of facilities.--

10 (6) This section may not ~~Nothing herein shall~~ be
11 construed to affect cleanup program eligibility under ss.
12 376.305(6), 376.3071, 376.3072, 376.3078, and 376.3079. Except
13 as otherwise expressly provided in this chapter, nothing in
14 this chapter shall affect, void, or defeat any immunity of any
15 real property owner or nearby real property owner under s.
16 376.3078.

17 Section 5. Subsection (3) and paragraph (a) of
18 subsection (5) of section 376.313, Florida Statutes, are
19 amended to read:

20 376.313 Nonexclusiveness of remedies and individual
21 cause of action for damages under ss. 376.30-376.319.--

22 (3) Except as provided in s. 376.3078(3) and (11)
23 ~~Notwithstanding any other provision of law, nothing contained~~
24 in ss. 376.30-376.319 prohibits any person from bringing a
25 cause of action in a court of competent jurisdiction for all
26 damages resulting from a discharge or other condition of
27 pollution covered by ss. 376.30-376.319. Nothing in this
28 chapter shall prohibit or diminish a party's right to
29 contribution from other parties jointly or severally liable
30 for a prohibited discharge of pollutants or hazardous
31 substances or other pollution conditions. Except as otherwise

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1 provided in subsection (4) or subsection (5), in any such
 2 suit, it is not necessary for such person to plead or prove
 3 negligence in any form or manner. Such person need only plead
 4 and prove the fact of the prohibited discharge or other
 5 pollutive condition and that it has occurred. The only
 6 defenses to such cause of action shall be those specified in
 7 s. 376.308.

8 (5)(a) In any civil action against the owner or
 9 operator of a drycleaning facility or a wholesale supply
 10 facility, or the owner of the real property on which such
 11 facility is located, if such facility is not eligible under s.
 12 376.3078(3) and is not involved in voluntary cleanup under s.
 13 376.3078(11), for damages arising from the discharge of
 14 drycleaning solvents from a drycleaning facility or wholesale
 15 supply facility, the provisions of subsection (3) shall not
 16 apply if it can be proven that, at the time of the discharge
 17 the alleged damages resulted solely from a discharge from a
 18 drycleaning facility or wholesale supply facility that was in
 19 compliance with department rules regulating drycleaning
 20 facilities or wholesale supply facilities.

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

24 And the title is amended as follows:

25 On page 1, line 12, delete that line

26

27 and insert:

28 s. 376.3079, F.S.; redefining the term
 29 "third-party liability" with respect to
 30 third-party liability insurance; amending s.
 31 376.308, F.S.; revising applicability of

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1 provisions that set out liabilities and
2 defenses of facilities; amending s. 376.313,
3 F.S.; revising provisions that
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