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1 A bill to be entitled

2 An act for the relief of Timothy Kulik and Theresa Ann
3 Kulik; providing an appropriation to compensate them for
4 injuries and damages sustained as a result of the
5 negligence of the Department of Highway Safety and Motor
6 Vehicles; providing an effective date.

7
8 WHEREAS, On March 30, 1996, Dr. Timothy Kulik, a dentist
9 from South Bend, Indiana, and his family, including his wife
10 Theresa Ann Kulik and their two teenage children, were en route
11 from Indiana to South Florida on Interstate 75, and

12 WHEREAS, Timothy Kulik's son, Michael Kulik, was driving
13 the family vehicle as the Kuliks traveled Interstate 75 in
14 Columbia County, Florida, heading southbound within an extended
15 construction zone, and

16 WHEREAS, Michael Kulik had been following a grey van for
17 some time, keeping up with traffic, traveling in the right lane,
18 when Florida Highway Patrol Trooper James Bond pulled behind the
19 Kulik vehicle and turned on his blue lights, indicating that the
20 Kulik vehicle must pull over, and

21 WHEREAS, Michael Kulik, an inexperienced driver with less
22 than one year's total driving experience, pulled the vehicle off
23 the road onto a shoulder still within the construction zone at a
24 point where there was no emergency lane, and

25 WHEREAS, the left rear tire of the vehicle came to rest on
26 asphalt less than 6 inches off of the right white line
27 delineating the shoulder of the road, with the left front tire
28 approximately 18 inches onto the shoulder, and

29 WHEREAS, the two right wheels came to rest on grass due to
30 the narrow shoulder created by ongoing construction in that



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31 area, and

32 WHEREAS, a large grassy area separated the roadway from a
33 large rest area, and

34 WHEREAS, testimony indicated that the swale was gentle and
35 dry, allowing for vehicles to pull well off the road without
36 risk of getting struck, and

37 WHEREAS, the Florida Highway Patrol Trooper, James Bond, in
38 pulling the vehicle over, parked his vehicle approximately 15
39 feet off of the roadway, and

40 WHEREAS, the pictures of the accident scene do not depict
41 where Trooper Bond was parked at the time of the accident, as he
42 moved his vehicle after the fact, and

43 WHEREAS, Trooper Bond stated in deposition testimony that
44 he noticed the proximity of the Kulik vehicle to the lanes of
45 traffic, and recognized the danger of same, but did not feel it
46 necessary to instruct Michael Kulik to move the vehicle further
47 from the roadway because he felt the family posed a flight risk,
48 and

49 WHEREAS, Trooper Bond did have available a bullhorn to hail
50 motorists from inside his vehicle but testified that his
51 supervisors had discouraged its use, and

52 WHEREAS, Trooper Bond further failed to position his marked
53 cruiser in a manner so as to alert oncoming motorists of the
54 hazard he created and over which he had control, instead
55 choosing to pull his automobile far off the roadway to an area
56 of safety, and

57 WHEREAS, Trooper Bond approached the Kulik vehicle from the
58 passenger side and engaged the driver through the passenger
59 window, and

60 WHEREAS, when asked at trial, Trooper Bond testified that



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61 approaching the Kulik vehicle from the driver's side would have
62 placed him in danger of passing motorists, and

63 WHEREAS, Timothy Kulik was in the front passenger seat and
64 was notably agitated by the fact that his son received a ticket
65 when he was merely following his father's instructions in
66 keeping up with traffic through this construction zone, and
67 voiced his displeasure to Trooper Bond during the stop, and

68 WHEREAS, Timothy Kulik testified that he used some
69 profanity when told to shut up by Trooper Bond, and

70 WHEREAS, Trooper Bond denied memory of any profanity, and

71 WHEREAS, when the ticket had been issued, Timothy Kulik
72 offered to replace Michael Kulik as the driver because the son
73 was noticeably shaken by the incident, and

74 WHEREAS, Timothy Kulik exited his seat and walked around
75 the rear of the vehicle, heading up the driver's side of the
76 Chevrolet Suburban, and

77 WHEREAS, Timothy Kulik passed his son Michael near the rear
78 wheel and walked to the front door which had been left ajar by
79 his son, and

80 WHEREAS, unfortunately, Timothy Kulik has no memory of
81 events from this point on, and

82 WHEREAS, expert testimony revealed that Timothy Kulik
83 opened the driver's door using his left hand, and

84 WHEREAS, as he did so, a large motor home passed and
85 impacted the open door pinning Timothy Kulik's entire left arm
86 between the door and motor home, and

87 WHEREAS, Timothy Kulik's left arm was practically severed
88 in the impact, and

89 WHEREAS, as the motor home passed, it dragged Timothy Kulik
90 and the door forward at high speed, throwing him around the door



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91 and forward onto the pavement in front of the truck, and

92 WHEREAS, the highway patrol policies and procedures clearly
93 stated that a trooper is not to hesitate to direct a stopped
94 motorist to an area of safety before instituting enforcement
95 action, and

96 WHEREAS, Trooper Bond testified that he saw the proximity
97 of the stopped Kulik car to the traffic lanes of Interstate 75
98 but chose to leave the Kuliks in a position of danger, and

99 WHEREAS, Trooper Bond also allowed that, in his more than
100 20-year career, he often saw motorists change drivers following
101 a traffic stop, and

102 WHEREAS, Trooper Bond also acknowledged that the Florida
103 Highway Patrol policy manual allowed for a trooper to instruct a
104 motorist to stay in the vehicle, and

105 WHEREAS, because of a defense error, Trooper Bond's
106 employment file was discussed in court and, as a result, it was
107 revealed that Trooper Bond had been sanctioned more than once
108 for displaying a very poor attitude, a fact that was key to
109 substantiating Timothy Kulik's testimony that Trooper Bond was
110 very abrasive when he approached the vehicle and baited Timothy
111 Kulik into retaliating, and

112 WHEREAS, an emergency room physician and his wife, an
113 emergency room nurse, were the first persons on the scene of the
114 accident, and

115 WHEREAS, the couple rendered trauma care and assisted in
116 stemming the tide of Timothy Kulik's profuse bleeding until
117 local emergency teams arrived, and

118 WHEREAS, simply put, Dr. Timothy Kulik's left arm was
119 shattered by the impact of the accident, and

120 WHEREAS, Dr. Kulik's arm, from the shoulder down to the



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121 wrist, was mangled, and no use of his hand or arm was possible
122 for many months, and

123 WHEREAS, Timothy Kulik underwent seven or eight significant
124 surgical procedures, and

125 WHEREAS, muscle transpositions have helped Dr. Kulik with
126 simple grasp functions, but overall there is no dexterity to the
127 left hand and minimal range of motion to the arm, and

128 WHEREAS, as a result of the accident of March 30, 1996, Dr.
129 Timothy Kulik's arm is virtually useless, and

130 WHEREAS, Dr. Timothy Kulik was a dentist in South Bend,
131 Indiana from 1976 to the present, opening his own practice in
132 1995, and

133 WHEREAS, dentistry being a profession requiring the full
134 use of both hands, Dr. Kulik is extremely limited in the types
135 of procedures he can perform, with more costly and meticulous
136 procedures such as crown placement being difficult to the point
137 that Dr. Kulik can no longer perform them, and

138 WHEREAS, at trial, it was the intent of Timothy Kulik's
139 legal representatives to prove that the motor home operator was
140 negligent, minimizing the role of Trooper Bond after the first
141 two days of testimony, and

142 WHEREAS, for the remainder of the trial Timothy Kulik's
143 attorneys concentrated on the motor home operator's actions,
144 including during the closing argument when it was suggested that
145 the jury find the Florida Highway Patrol minimally negligent,
146 and

147 WHEREAS, despite this, the jury returned with a verdict
148 attributing 0 percent negligence to the motor home operator,
149 approximately 46 percent negligence to Trooper Bond, and 54
150 percent negligence to Timothy Kulik, and



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151 WHEREAS, the gross verdict in the trial was in the amount
 152 of \$3,125,000 for Timothy Kulik and \$50,000 for Theresa Ann
 153 Kulik for loss of consortium, and

154 WHEREAS, after reductions for comparative fault, judgment
 155 was entered against the State of Florida Department of Highway
 156 Safety and Motor Vehicles in the sum of \$1,437,500 for damages
 157 incurred by Timothy Kulik and \$23,000 for damages incurred by
 158 Theresa Ann Kulik, NOW, THEREFORE,

159

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

161

162 Section 1. The facts stated in the preamble to this act
 163 are found and declared to be true.

164 Section 2. The sum of \$1,437,500 is appropriated from the
 165 General Revenue Fund to the Department of Highway Safety and
 166 Motor Vehicles for the relief of Timothy Kulik as compensation
 167 for injuries and damages sustained.

168 Section 3. The sum of \$23,000 is appropriated from the
 169 General Revenue Fund to the Department of Highway Safety and
 170 Motor Vehicles for the relief of Theresa Ann Kulik as
 171 compensation for injuries and damages sustained.

172 Section 4. The Chief Financial Officer is directed to draw
 173 a warrant in favor of Timothy Kulik in the sum of \$1,437,500
 174 upon funds of the Department of Highway Safety and Motor
 175 Vehicles, and the State Treasurer is directed to pay the same
 176 out of funds in the State Treasury.

177 Section 5. The Chief Financial Officer is directed to draw
 178 a warrant in favor of Theresa Ann Kulik in the sum of \$23,000
 179 upon funds of the Department of Highway Safety and Motor



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180 Vehicles, and the State Treasurer is directed to pay the same
181 out of funds in the State Treasury.

182 Section 6. This act shall take effect upon becoming a law.