

1 A bill to be entitled
 2 An act relating to civil justice reform; creating s.
 3 46.100, F.S.; providing for dismissal of actions based on
 4 fraudulent or deceptive activity; providing for recovery
 5 of damages and attorney fees and costs in certain actions;
 6 amending s. 324.021, F.S.; repealing the dangerous
 7 instrumentality doctrine; providing for liability for
 8 personal injuries under certain circumstances; deleting
 9 provisions specifying ownership of motor vehicles for
 10 certain purposes; deleting provisions specifying
 11 application of certain limits of liability; amending s.
 12 624.155, F.S.; limiting actions against an insurer to
 13 insureds; specifying a duty to cooperate with an insurer
 14 in asserting a demand for settlement; specifying certain
 15 activities as a defense in certain actions; revising
 16 certain time periods relating to notices in certain
 17 actions; revising notice requirements; providing for
 18 preemption of specified civil remedies; specifying effect
 19 of certain judgments; specifying a criterion for burden of
 20 proof in actions against an insurer; limiting insurer
 21 liability for failure to pay policy limits under certain
 22 circumstances; authorizing parties to request certain
 23 court orders relating to unnecessary delay; providing
 24 requirements for amending witness lists; limiting
 25 admissibility of certain evidence; specifying
 26 considerations for a trier of fact in certain actions;
 27 providing construction relating to assigning causes of
 28 action; amending s. 768.0710, F.S.; limiting liability for
 29 damages to a claimant resulting from intentional or

30 criminal acts; creating s. 768.1254, F.S.; providing
 31 definitions; creating s. 768.1255, F.S.; providing general
 32 rules for product liability actions against product
 33 sellers; specifying criteria for liability of a product
 34 seller as a manufacturer; amending s. 768.1256, F.S.;
 35 deleting a rebuttable presumption provision in product
 36 liability actions; creating s. 768.1382, F.S.; limiting
 37 liability of certain public and private entities providing
 38 street lights, security lights, or other similar
 39 illumination; providing that certain entities do not owe a
 40 duty to the public to provide, operate, or maintain
 41 illumination; providing exceptions; prohibiting certain
 42 findings of fault or responsibility of an entity not a
 43 party to litigation; amending s. 768.28, F.S.; limiting
 44 the liability of law enforcement officers or sheriffs and
 45 employing law enforcement agencies for civil damages for
 46 injury or death from pursuing fleeing persons under
 47 certain circumstances; amending s. 768.76, F.S.; requiring
 48 a jury to be informed of the amount of certain benefits
 49 paid or available for payment from collateral sources;
 50 amending s. 768.79, F.S.; specifying absence of
 51 restrictions on certain settlement or release agreements;
 52 limiting attorney fees under certain circumstances;
 53 amending s. 768.81, F.S.; deleting exceptions to a
 54 requirement for liability based on percentage of fault
 55 instead of joint and several liability; providing for
 56 apportionment of damages; expanding application of
 57 provisions to additional negligence cases; revising a
 58 nonapplication provision; amending s. 324.031, F.S.;

59 removing a cross reference, to conform; repealing s.
60 324.032, F.S., relating to manner of proving financial
61 responsibility for for-hire passenger transportation
62 vehicles; repealing s. 768.1257, F.S., relating to state-
63 of-the-art defense for products liability; providing
64 severability; providing applicability; providing an
65 effective date.

66
67 WHEREAS, it is the intent of the Legislature to protect the
68 right of the citizen to access the courts while protecting jobs
69 by limiting the liability of citizens, governmental agencies,
70 and businesses, and

71 WHEREAS, civil lawsuits and counterclaims, often involving
72 millions of dollars, have been and are being filed against
73 countless citizens, governmental agencies, and businesses in
74 this state where those citizens, governmental agencies, and
75 business ought not be held liable, and

76 WHEREAS, such lawsuits and counterclaims are often filed
77 against citizens, governmental agencies, and businesses with the
78 most amount of money and ability to pay large settlements, and

79 WHEREAS, such lawsuits and counterclaims put the citizens,
80 governmental agencies, and businesses of this state through
81 great and needless expense, harassment, and interruption of
82 their duties, and

83 WHEREAS, such lawsuits and counterclaims have increased
84 significantly over the last 30 years and have become a threat to
85 the employment security and public safety of the citizens of
86 this state, and

87 WHEREAS, the following changes to the manner in which civil

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88 actions are conducted will ensure that citizens continue to have
89 a right of access to courts and that jobs in this state will be
90 protected by ensuring that citizens, governmental agencies, and
91 businesses will not be held liable when they ought not be, and

92 WHEREAS, the Legislature acknowledges that the civil
93 justice system is a very complex system which touches upon many
94 areas, and, in order to accomplish the aforementioned goals, any
95 reforms to this system must be broad, comprehensive, and all-
96 inclusive, and

97 WHEREAS, it is the intent of the Legislature to accomplish
98 these goals by reforming the civil justice system of this state
99 and that the Legislature believes the following changes are thus
100 needed, NOW, THEREFORE,

101

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

103

104 Section 1. Section 46.100, Florida Statutes, is created to
105 read:

106 46.100 Dismissal due to fraud.--

107 (1) In any civil action, the defendant shall be entitled
108 to dismissal upon a motion for dismissal with evidence
109 demonstrating that the plaintiff engaged in any fraudulent or
110 deceptive activity in any aspect of the lawsuit which is the
111 subject of the damages sought from the defendant. Such motion
112 for motion for dismissal shall be granted based on a
113 preponderance of the evidence. The judge shall rule on such
114 motions in a timely manner.

115 (2) A defendant prevailing in such action under subsection
116 (1) may recover compensatory, consequential, and punitive

117 damages subject to the requirements and limitations of part II
 118 of chapter 768 and attorney's fees and costs incurred in
 119 litigating a cause of action against any person convicted of, or
 120 who, regardless of adjudication of guilt, pleads guilty or nolo
 121 contendere to insurance fraud under s. 817.234, associated with
 122 a claim for damages or other benefits.

123 Section 2. Subsection (9) of section 324.021, Florida
 124 Statutes, is amended to read:

125 324.021 Definitions; minimum insurance required.--The
 126 following words and phrases when used in this chapter shall, for
 127 the purpose of this chapter, have the meanings respectively
 128 ascribed to them in this section, except in those instances
 129 where the context clearly indicates a different meaning:

130 (9) DANGEROUS INSTRUMENTALITY DOCTRINE REPEALED ~~OWNER;~~
 131 ~~OWNER/LESSOR.~~--The dangerous instrumentality doctrine is
 132 repealed. A person or entity that negligently entrusts the use
 133 of a vehicle to a third party may be liable for any personal
 134 injuries that occur as a result of the negligent operation of
 135 the vehicle by the third party if the entrusting party knew or
 136 had reason to know that the third party would use the vehicle in
 137 such a manner as to create an unreasonable risk of harm to
 138 others.

139 ~~(a) Owner.--A person who holds the legal title of a motor~~
 140 ~~vehicle; or, in the event a motor vehicle is the subject of an~~
 141 ~~agreement for the conditional sale or lease thereof with the~~
 142 ~~right of purchase upon performance of the conditions stated in~~
 143 ~~the agreement and with an immediate right of possession vested~~
 144 ~~in the conditional vendee or lessee, or in the event a mortgagor~~
 145 ~~of a vehicle is entitled to possession, then such conditional~~

146 ~~vendee or lessee or mortgagor shall be deemed the owner for the~~
147 ~~purpose of this chapter.~~

148 ~~(b) Owner/lessor. -- Notwithstanding any other provision of~~
149 ~~the Florida Statutes or existing case law:~~

150 ~~1. The lessor, under an agreement to lease a motor vehicle~~
151 ~~for 1 year or longer which requires the lessee to obtain~~
152 ~~insurance acceptable to the lessor which contains limits not~~
153 ~~less than \$100,000/\$300,000 bodily injury liability and \$50,000~~
154 ~~property damage liability or not less than \$500,000 combined~~
155 ~~property damage liability and bodily injury liability, shall not~~
156 ~~be deemed the owner of said motor vehicle for the purpose of~~
157 ~~determining financial responsibility for the operation of said~~
158 ~~motor vehicle or for the acts of the operator in connection~~
159 ~~therewith; further, this subparagraph shall be applicable so~~
160 ~~long as the insurance meeting these requirements is in effect.~~
161 ~~The insurance meeting such requirements may be obtained by the~~
162 ~~lessor or lessee, provided, if such insurance is obtained by the~~
163 ~~lessor, the combined coverage for bodily injury liability and~~
164 ~~property damage liability shall contain limits of not less than~~
165 ~~\$1 million and may be provided by a lessor's blanket policy.~~

166 ~~2. The lessor, under an agreement to rent or lease a motor~~
167 ~~vehicle for a period of less than 1 year, shall be deemed the~~
168 ~~owner of the motor vehicle for the purpose of determining~~
169 ~~liability for the operation of the vehicle or the acts of the~~
170 ~~operator in connection therewith only up to \$100,000 per person~~
171 ~~and up to \$300,000 per incident for bodily injury and up to~~
172 ~~\$50,000 for property damage. If the lessee or the operator of~~
173 ~~the motor vehicle is uninsured or has any insurance with limits~~
174 ~~less than \$500,000 combined property damage and bodily injury~~

175 ~~liability, the lessor shall be liable for up to an additional~~
 176 ~~\$500,000 in economic damages only arising out of the use of the~~
 177 ~~motor vehicle. The additional specified liability of the lessor~~
 178 ~~for economic damages shall be reduced by amounts actually~~
 179 ~~recovered from the lessee, from the operator, and from any~~
 180 ~~insurance or self-insurance covering the lessee or operator.~~
 181 ~~Nothing in this subparagraph shall be construed to affect the~~
 182 ~~liability of the lessor for its own negligence.~~

183 ~~3. The owner who is a natural person and loans a motor~~
 184 ~~vehicle to any permissive user shall be liable for the operation~~
 185 ~~of the vehicle or the acts of the operator in connection~~
 186 ~~therewith only up to \$100,000 per person and up to \$300,000 per~~
 187 ~~incident for bodily injury and up to \$50,000 for property~~
 188 ~~damage. If the permissive user of the motor vehicle is uninsured~~
 189 ~~or has any insurance with limits less than \$500,000 combined~~
 190 ~~property damage and bodily injury liability, the owner shall be~~
 191 ~~liable for up to an additional \$500,000 in economic damages only~~
 192 ~~arising out of the use of the motor vehicle. The additional~~
 193 ~~specified liability of the owner for economic damages shall be~~
 194 ~~reduced by amounts actually recovered from the permissive user~~
 195 ~~and from any insurance or self-insurance covering the permissive~~
 196 ~~user. Nothing in this subparagraph shall be construed to affect~~
 197 ~~the liability of the owner for his or her own negligence.~~

198 ~~(c) Application.--~~

199 ~~1. The limits on liability in subparagraphs (b)2. and 3.~~
 200 ~~do not apply to an owner of motor vehicles that are used for~~
 201 ~~commercial activity in the owner's ordinary course of business,~~
 202 ~~other than a rental company that rents or leases motor vehicles.~~
 203 ~~For purposes of this paragraph, the term "rental company"~~

204 ~~includes only an entity that is engaged in the business of~~
 205 ~~renting or leasing motor vehicles to the general public and that~~
 206 ~~rents or leases a majority of its motor vehicles to persons with~~
 207 ~~no direct or indirect affiliation with the rental company. The~~
 208 ~~term also includes a motor vehicle dealer that provides~~
 209 ~~temporary replacement vehicles to its customers for up to 10~~
 210 ~~days.~~

211 ~~2. Furthermore, with respect to commercial motor vehicles~~
 212 ~~as defined in s. 627.732, the limits on liability in~~
 213 ~~subparagraphs (b)2. and 3. do not apply if, at the time of the~~
 214 ~~incident, the commercial motor vehicle is being used in the~~
 215 ~~transportation of materials found to be hazardous for the~~
 216 ~~purposes of the Hazardous Materials Transportation Authorization~~
 217 ~~Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is~~
 218 ~~required pursuant to such act to carry placards warning others~~
 219 ~~of the hazardous cargo, unless at the time of lease or rental~~
 220 ~~either:~~

221 ~~a. The lessee indicates in writing that the vehicle will~~
 222 ~~not be used to transport materials found to be hazardous for the~~
 223 ~~purposes of the Hazardous Materials Transportation Authorization~~
 224 ~~Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or~~

225 ~~b. The lessee or other operator of the commercial motor~~
 226 ~~vehicle has in effect insurance with limits of at least~~
 227 ~~\$5,000,000 combined property damage and bodily injury liability.~~

228 Section 3. Subsections (1), (3), and (8) of section
 229 624.155, Florida Statutes, are amended, and subsections (9),
 230 (10), (11), and (12) are added to said section, to read:

231 624.155 Civil remedy.--

232 (1) An insured ~~Any person~~ may bring a civil action against
 233 an insurer when such person is damaged:

234 (a) By a violation of any of the following provisions by
 235 the insurer:

- 236 1. Section 626.9541(1)(i), (o), or (x);
- 237 2. Section 626.9551;
- 238 3. Section 626.9705;
- 239 4. Section 626.9706;
- 240 5. Section 626.9707; or
- 241 6. Section 627.7283.

242 (b) By the commission of any of the following acts by the
 243 insurer:

244 1. Not attempting in good faith to settle claims when,
 245 under all the circumstances, it could and should have done so,
 246 had it acted fairly and honestly toward its insured and with due
 247 regard for her or his interests and the interests of all other
 248 policyholders. However, both the insured and any person
 249 asserting any demand for such settlement owes a similar duty to
 250 the insurer to cooperate fully with the insurer, and it shall be
 251 a defense to any action under this section if the court finds
 252 that the insured or other person demanding settlement:

253 a. Failed to cooperate fully in facilitating the
 254 settlement;

255 b. Imposed or adhered to time limits or other conditions
 256 on settlement without at that time demonstrating to the insurer
 257 valid reasons that such time limits or other conditions were
 258 reasonable and necessary and that such reasons were totally
 259 unrelated to the possibility of obtaining damages under this
 260 section; or

261 c. Lacked authority to make the demand or to accept the
262 amount demanded in full settlement of all claims, including
263 liens, arising from the occurrence;

264 2. Making claims payments to insureds or beneficiaries not
265 accompanied by a statement setting forth the coverage under
266 which payments are being made; or

267 3. Except as to liability coverages, failing to promptly
268 settle claims, when the obligation to settle a claim has become
269 reasonably clear, under one portion of the insurance policy
270 coverage in order to influence settlements under other portions
271 of the insurance policy coverage.

272
273 Notwithstanding the provisions of the above to the contrary, a
274 person pursuing a remedy under this section need not prove that
275 such act was committed or performed with such frequency as to
276 indicate a general business practice.

277 (3)(a) As a condition precedent to bringing an action
278 under this section, the department and the authorized insurer
279 must have been given 90 ~~60~~ days' written notice of the
280 violation. If the department returns a notice for lack of
281 specificity, the 90-day ~~60-day~~ time period shall not begin until
282 a proper notice is filed.

283 (b) The notice shall be on a form provided by the
284 department and shall state with specificity the following
285 information, and such other information as the department may
286 require:

287 1. The statutory provision, including the specific
288 language of the statute, which the authorized insurer allegedly
289 violated.

290 2. The specific facts and circumstances giving rise to the
 291 violation, including facts and circumstances pertinent to each
 292 factor stated in subsection (10) and the identity of all parties
 293 who have made claims against the insured for the occurrence
 294 giving rise to the claim and any documentation pertaining to
 295 such claims.

296 3. The name of any individual involved in the violation.

297 4. Reference to specific policy coverage and language that
 298 is relevant to the violation, if any. If the person bringing the
 299 civil action is a third party claimant, she or he shall not be
 300 required to reference the specific policy language if the
 301 authorized insurer has not provided a copy of the policy to the
 302 third party claimant pursuant to written request.

303 5. A statement that the notice is given in order to
 304 perfect the right to pursue the civil remedy authorized by this
 305 section.

306 6. A detailed description of the specific dollar amounts
 307 that are due and unpaid under each available coverage and how
 308 such amounts are calculated and of any other actions requested
 309 to cure the violation.

310 (c) Within 30 ~~20~~ days of receipt of the notice, the
 311 department shall ~~may~~ return any notice that does not provide the
 312 specific information required by this section, and the
 313 department shall indicate the specific deficiencies contained in
 314 the notice. A determination by the department to return a notice
 315 for lack of specificity shall be exempt from the requirements of
 316 chapter 120.

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317 (d) No action shall lie if, within 90 ~~60~~ days after filing
318 notice, the damages are paid or the circumstances giving rise to
319 the violation are corrected.

320 (e) The authorized insurer that is the recipient of a
321 notice filed pursuant to this section shall report to the
322 department on the disposition of the alleged violation.

323 (f) The applicable statute of limitations for an action
324 under this section shall be tolled for a period of 95 ~~65~~ days by
325 the mailing of the notice required by this subsection or the
326 mailing of a subsequent notice required by this subsection.

327 (8) The civil remedy specified in this section preempts
328 ~~all does not preempt any other remedies and causes remedy or~~
329 ~~cause of action for extra-contractual damages for failure to~~
330 ~~settle under an insurance contract provided for pursuant to any~~
331 ~~other statute or pursuant to the common law of this state. Any~~
332 ~~person may obtain a judgment under either the common-law remedy~~
333 ~~of bad faith or this statutory remedy, but shall not be entitled~~
334 ~~to a judgment under both remedies.~~ This section shall not be
335 construed to create a common-law cause of action. The damages
336 recoverable pursuant to this section shall include, but not
337 exceed, those actual damages which are a reasonably foreseeable
338 result of a specified violation of this section by the
339 authorized insurer and may include an award or judgment in an
340 amount that exceeds the policy limits. The rendition of a
341 judgment against a liability insured shall not raise any
342 presumption or inference that the violation will foreseeably
343 result in actual damages, except to the extent it is proven that
344 the insured has or is reasonably expected to have assets from
345 which such judgment is expected to be paid. The satisfaction of

346 a judgment rendered against an insurer pursuant to this
 347 subsection shall operate as the satisfaction of the underlying
 348 judgment against the insured.

349 (9) In all actions against an insurer relating to failure
 350 to settle claims for liability insurance coverage, the burden of
 351 proof shall be clear and convincing evidence of an unreasonable
 352 refusal to settle.

353 (a) An insurer shall not be held liable for failure to pay
 354 its policy limits if the insurer tenders its policy limits by
 355 the earlier of:

356 1. The 210th day after service of the complaint in the
 357 negligence action upon the insured. The time period specified in
 358 this subparagraph shall be extended by an additional 60 days if
 359 the court finds in the action for a violation of this section
 360 that, at any time during such period and after the 150th day
 361 after service of the complaint in the underlying liability
 362 action, the claimant provided new information not previously
 363 provided to the insurer relating to the identity or testimony of
 364 any material witnesses or the identity of any additional
 365 claimants or defendants if such disclosure materially alters the
 366 risk to the insured of an excess judgment; or

367 2. The 60th day after the conclusion of all of the
 368 following:

369 a. Depositions of all claimants named in the complaint or
 370 amended complaint.

371 b. Depositions of all defendants named in the complaint or
 372 amended complaint, including, in the case of a corporate
 373 defendant, deposition of a designated representative.

374 c. Depositions of all of the claimants' expert witnesses.

375 d. The initial disclosure of witnesses and production of
376 documents.

377
378 When there are multiple claimants seeking compensation from the
379 same insured or multiple insureds or when there is a single
380 claimant seeking compensation from multiple insureds for damages
381 arising from the same occurrence, which compensation in the
382 aggregate exceeds policy limits, the insurer of the insured or
383 insureds shall not be held liable for extra-contractual damages
384 for failure to pay its policy limits if the insurer makes a
385 written offer of its policy limits within the time frame set
386 forth in this subsection to all known potential claimants in
387 exchange for releases of all claims against all insureds or
388 tenders such limits to the court for apportionment to the
389 claimants.

390 (b) Either party may request that the court enter an order
391 finding that the other party has unnecessarily or
392 inappropriately delayed any of the events specified in
393 subparagraph (a)2. If the court finds that the claimant was
394 responsible for such unnecessary or inappropriate delay,
395 subparagraph (a)1. shall not apply to the insurer's tendering of
396 policy limits. If the court finds that the defendant or insurer
397 was responsible for such unnecessary or inappropriate delay,
398 subparagraph (a)2. shall not apply to the insurer's tendering of
399 policy limits.

400 (c) If any party to an action alleging liability for acts
401 covered by liability insurance amends its witness list after
402 service of the complaint in such action, that party shall
403 provide a copy of the amended witness list to the insurer of the

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404 defendant.

405 (d) The time limits specified in this subsection shall not
406 be admissible as evidence that the insurer acted in violation of
407 this section.

408 (10) When an insurer does not tender its policy limits to
409 settle a liability insurance claim under subsection (9), the
410 trier of fact, in determining whether an insurer has acted in
411 violation of this section, shall consider only:

412 (a) The insurer's willingness to negotiate with the
413 claimant in anticipation of settlement.

414 (b) The propriety of the insurer's methods of
415 investigating and evaluating the claim.

416 (c) Whether the insurer timely informed the insured of an
417 offer to settle within the limits of coverage, the right to
418 retain personal counsel, and the risk of litigation.

419 (d) Whether the insured denied liability or requested that
420 the case be defended after the insurer fully advised the insured
421 as to the facts and risks.

422 (e) Whether the claimant imposed any condition, other than
423 the tender of the policy limits, on the settlement of the claim.

424 (f) Whether the claimant provided all relevant information
425 to the insurer on a timely basis.

426 (g) Whether and when other defendants in the case settled
427 or were dismissed from the case.

428 (h) Whether there were multiple claimants seeking, in the
429 aggregate, compensation in excess of policy limits from the
430 defendant or the defendant's insurer.

431 (i) Whether the insured or claimant misrepresented
 432 material facts to the insurer or made material omissions of fact
 433 to the insurer.

434 (j) Other matters that constitute defenses or limitations
 435 to actions or damages that are specified in this section.

436 (11) An insurer that tenders policy limits shall be
 437 entitled to a release of its insured if the claimant accepts the
 438 tender.

439 (12) Nothing in this section shall be construed to
 440 prohibit an insured from assigning the cause of action to an
 441 injured third-party claimant for the insurer's failure to act
 442 fairly and honestly towards its insured and with due regard for
 443 the insured's interest.

444 Section 4. Section 768.0710, Florida Statutes, is amended
 445 to read:

446 768.0710 ~~Burden of proof in claims of negligence involving~~
 447 ~~transitory foreign objects or substances against persons or~~
 448 ~~entities in possession or control of business Premises liability~~
 449 ~~for commercial establishments.--~~

450 (1) When a person slips and falls on a transitory foreign
 451 substance in a retail establishment, the injured person must
 452 prove that the retail establishment had actual or constructive
 453 knowledge of the dangerous condition such that the condition
 454 existed for such a length of time that, in the exercise of
 455 ordinary care, the premises' owner should have known of the
 456 condition and taken action to remedy the condition. Constructive
 457 knowledge may be established by circumstantial evidence showing
 458 that:

459 (a) The dangerous condition existed for such a length of
 460 time that, in the exercise of ordinary care, the premises owner
 461 should have known of the condition; or

462 (b) The condition occurred with regularity and was
 463 therefore foreseeable. The person or entity in possession or
 464 control of business premises owes a duty of reasonable care to
 465 maintain the premises in a reasonably safe condition for the
 466 safety of business invitees on the premises, which includes
 467 reasonable efforts to keep the premises free from transitory
 468 foreign objects or substances that might foreseeably give rise
 469 to loss, injury, or damage.

470 (2) Notwithstanding any provision of this section, any
 471 person or entity in possession or control of a business premises
 472 is not liable for any damages to a claimant if such loss,
 473 injury, or damage to a business invitee is the result of the
 474 intentional or criminal acts of a third party. In any civil
 475 action for negligence involving loss, injury, or damage to a
 476 business invitee as a result of a transitory foreign object or
 477 substance on business premises, the claimant shall have the
 478 burden of proving that:

479 ~~(a) The person or entity in possession or control of the~~
 480 ~~business premises owed a duty to the claimant;~~

481 ~~(b) The person or entity in possession or control of the~~
 482 ~~business premises acted negligently by failing to exercise~~
 483 ~~reasonable care in the maintenance, inspection, repair, warning,~~
 484 ~~or mode of operation of the business premises. Actual or~~
 485 ~~constructive notice of the transitory foreign object or~~
 486 ~~substance is not a required element of proof to this claim.~~

487 ~~However, evidence of notice or lack of notice offered by any~~
 488 ~~party may be considered together with all of the evidence; and~~
 489 ~~(c) The failure to exercise reasonable care was a legal~~
 490 ~~cause of the loss, injury, or damage.~~

491 Section 5. Section 768.1254, Florida Statutes, is created
 492 to read:

493 768.1254 Definitions.--As used in this section and ss.
 494 768.1255 and 768.1256:

495 (1) "Product liability action" means any civil claim or
 496 action for harm caused by a product, regardless of the theory on
 497 which the claim is based.

498 (2) "Harm" means death; personal injury; physical damage
 499 to property other than to the product itself; economic loss,
 500 including the loss of earnings or other benefits related to
 501 employment, medical expenses, lost support and services, funeral
 502 and burial costs, loss of business or employment opportunities,
 503 and medical monitoring, as permitted under applicable law; and
 504 noneconomic loss, including pain and suffering, mental anguish,
 505 disfigurement, loss of capacity for the enjoyment of life,
 506 emotional distress, loss of society and companionship, loss of
 507 consortium, injury to reputation, humiliation, fear of future
 508 injury, or increased risk of disease, as permitted under
 509 applicable law. The term does not include direct, incidental, or
 510 consequential pecuniary loss to, or resulting from damage to,
 511 the product or nonphysical damage to property other than the
 512 product.

513 (3) "Manufacturer" means any person who, in the course of
 514 a business conducted for that purpose, designs, makes,
 515 constructs, formulates, produces, fabricates, assembles,

516 packages, or labels any product or component part of a product
 517 or engages another to do so. The term does not include
 518 independent product designers whose services are contracted for
 519 by the manufacturer if such designers are not otherwise engaged
 520 in the business of selling products.

521 (4) "Person" means any individual, corporation, company,
 522 association, firm, partnership, society, organization, joint
 523 stock company, or any other entity.

524 (5) "Product" means any tangible personal property
 525 distributed commercially.

526 (6) "Seller" means a person or entity, including a
 527 retailer, distributor, wholesaler, or lessor, that is regularly
 528 engaged in the selling or leasing of a product.

529 Section 6. Section 768.1255, Florida Statutes, is created
 530 to read:

531 768.1255 General rule; seller liable as a manufacturer.--

532 (1) GENERAL RULE.--No product liability action may be
 533 maintained or commenced against a product seller unless the
 534 product seller:

535 (a) Made an express warranty as to the product and the
 536 failure of the product to conform to that warranty caused the
 537 person's harm;

538 (b) Produced, designed, designated, or provided the plans
 539 or specifications for the manufacture or preparation of the
 540 product;

541 (c) Altered, modified, assembled, failed to maintain,
 542 packaged, labeled, or installed the product in a manner that
 543 caused the person's harm;

544 (d) Violated a statutory or regulatory requirement when
 545 the seller sold the product, including any violation of s.
 546 768.125; or

547 (e) Negligently entrusted or supplied the product for the
 548 use of another whom the product seller knew or should have known
 549 would be likely to use the product in a manner that posed an
 550 unreasonable risk of physical harm to the user or others.

551 (2) SELLER LIABLE AS A MANUFACTURER.--Notwithstanding
 552 subsection (1), a product seller may be liable as a manufacturer
 553 if:

554 (a) The manufacturer has no identifiable agent, facility,
 555 or other presence in the United States;

556 (b) The manufacturer is not subject to service of process
 557 in any state in which the action could have been brought and
 558 service cannot be secured by a long-arm statute;

559 (c) The manufacturer is otherwise immune from suit; or

560 (d) The court determines that the person is or would be
 561 unable to enforce a judgment against the manufacturer. For
 562 purpose of this paragraph, the statute of limitations applicable
 563 to a claim asserting the liability of a product seller is tolled
 564 from the date of the filing of a complaint against the
 565 manufacturer to the date that judgment is entered against the
 566 manufacturer.

567 Section 7. Subsections (2) and (3) of section 768.1256,
 568 Florida Statutes, are amended to read:

569 768.1256 Government rules defense.--

570 ~~(2) In a product liability action as described in~~
 571 ~~subsection (1), there is a rebuttable presumption that the~~
 572 ~~product is defective or unreasonably dangerous and the~~

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573 ~~manufacturer or seller is liable if the manufacturer or seller~~
 574 ~~did not comply with the federal or state codes, statutes, rules,~~
 575 ~~regulations, or standards which:~~

576 ~~(a) Were relevant to the event causing the death or~~
 577 ~~injury;~~

578 ~~(b) Are designed to prevent the type of harm that~~
 579 ~~allegedly occurred; and~~

580 ~~(c) Require compliance as a condition for selling or~~
 581 ~~distributing the product.~~

582 ~~(2)(3)~~ This section does not apply to an action brought
 583 for harm allegedly caused by a drug that is ordered off the
 584 market or seized by the Federal Food and Drug Administration.

585 Section 8. Section 768.1382, Florida Statutes, is created
 586 to read:

587 768.1382 Street lights and other similar illumination;
 588 limitation on liability.--Neither the state, any of the state's
 589 officers, agencies, or instrumentalities, any political
 590 subdivision, as defined in s. 1.01, nor any electric utility, as
 591 defined in s. 366.02(2), that provides or operates or maintains
 592 street lights, security lights, or other similar illumination
 593 shall be held liable for any civil damages for injury or death
 594 affected or caused by the adequacy or failure of illumination of
 595 such lights, regardless of whether the adequacy or failure of
 596 illumination is alleged or demonstrated to have contributed in
 597 any manner to the injury or death, unless such liability was
 598 expressly assumed by written contract. No such entity that
 599 provides, operates, or maintains a manner of illumination as
 600 described in this section owes a duty to the public to provide,
 601 operate, or maintain the illumination in any manner, except that

602 such a duty may be expressly assumed by written contract. In any
 603 civil action for damages arising out of personal injury or
 604 wrongful death when an entity's fault regarding the maintenance
 605 of street lights is at issue, if the entity responsible for
 606 maintaining the street lights is not a party to the litigation,
 607 the entity shall not be deemed or found in such action to be in
 608 any way at fault or responsible for the injury or death that
 609 gave rise to the damages.

610 Section 9. Paragraph (d) is added to subsection (9) of
 611 section 768.28, Florida Statutes, to read:

612 768.28 Waiver of sovereign immunity in tort actions;
 613 recovery limits; limitation on attorney fees; statute of
 614 limitations; exclusions; indemnification; risk management
 615 programs.--

616 (9)

617 (d) No sheriff or law enforcement officer as defined in s.
 618 943.10(1), employed by any county, municipality, state agency,
 619 or any political subdivision of the state, or the employing
 620 agency as defined in s. 943.10(4), shall be held liable for any
 621 civil damages for injury or death effected or caused by a person
 622 fleeing from a sheriff or law enforcement officer when the
 623 pursuit of that person is conducted in a manner that did not
 624 involve willful or wanton disregard for the safety of persons or
 625 property on the part of the sheriff or law enforcement officer
 626 and the person fleeing is reasonably believed to have committed
 627 a felony violation of the laws of this state.

628 Section 10. Subsection (1) of section 768.76, Florida
 629 Statutes, is amended to read:

630 768.76 Collateral sources of indemnity.--

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631 (1) In any action to which this part applies in which
632 liability is admitted or is determined by the trier of fact and
633 in which damages are awarded to compensate the claimant for
634 losses sustained, the jury shall be informed of the total of all
635 amounts which have been paid for the benefit of claimant or
636 which are otherwise available to the claimant from all
637 collateral sources, and the court shall reduce the amount of
638 such award by the total of all amounts which have been paid for
639 the benefit of the claimant, or which are otherwise available to
640 the claimant, from all collateral sources; however, there shall
641 be no reduction for collateral sources for which a subrogation
642 or reimbursement right exists. Such reduction shall be offset to
643 the extent of any amount which has been paid, contributed, or
644 forfeited by, or on behalf of, the claimant or members of the
645 claimant's immediate family to secure her or his right to any
646 collateral source benefit which the claimant is receiving as a
647 result of her or his injury.

648 Section 11. Subsection (9) is added to section 768.79,
649 Florida Statutes, to read:

650 768.79 Offer of judgment and demand for judgment.--

651 (9) Nothing in this section restricts the ability of
652 parties to enter into any settlement agreements or release
653 agreements discharging liability in exchange for an amount of
654 consideration agreed to by the parties. If the parties reach
655 such agreement without the assistance of their respective
656 attorneys, an attorney fee shall be payable to the plaintiff's
657 attorney for an amount not to exceed 25 percent of the agreed-
658 upon consideration for the settlement and release, regardless of

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659 any other contractual arrangement for attorney fees that may
660 exist.

661 Section 12. Subsections (3) and (4) of section 768.81,
662 Florida Statutes, are amended to read:

663 768.81 Comparative fault.--

664 (3) APPORTIONMENT OF DAMAGES.--In cases to which this
665 section applies, the court shall enter judgment against each
666 party liable on the basis of such party's percentage of fault
667 and not on the basis of the doctrine of joint and several
668 liability., ~~except as provided in paragraphs (a), (b), and (c):~~

669 ~~(a) Where a plaintiff is found to be at fault, the~~
670 ~~following shall apply:~~

671 ~~1. Any defendant found 10 percent or less at fault shall~~
672 ~~not be subject to joint and several liability.~~

673 ~~2. For any defendant found more than 10 percent but less~~
674 ~~than 25 percent at fault, joint and several liability shall not~~
675 ~~apply to that portion of economic damages in excess of \$200,000.~~

676 ~~3. For any defendant found at least 25 percent but not~~
677 ~~more than 50 percent at fault, joint and several liability shall~~
678 ~~not apply to that portion of economic damages in excess of~~
679 ~~\$500,000.~~

680 ~~4. For any defendant found more than 50 percent at fault,~~
681 ~~joint and several liability shall not apply to that portion of~~
682 ~~economic damages in excess of \$1 million.~~

683
684 ~~For any defendant under subparagraph 2., subparagraph 3., or~~
685 ~~subparagraph 4., the amount of economic damages calculated under~~
686 ~~joint and several liability shall be in addition to the amount~~

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687 ~~of economic and noneconomic damages already apportioned to that~~
688 ~~defendant based on that defendant's percentage of fault.~~

689 ~~(b) Where a plaintiff is found to be without fault, the~~
690 ~~following shall apply:~~

691 ~~1. Any defendant found less than 10 percent at fault shall~~
692 ~~not be subject to joint and several liability.~~

693 ~~2. For any defendant found at least 10 percent but less~~
694 ~~than 25 percent at fault, joint and several liability shall not~~
695 ~~apply to that portion of economic damages in excess of \$500,000.~~

696 ~~3. For any defendant found at least 25 percent but not~~
697 ~~more than 50 percent at fault, joint and several liability shall~~
698 ~~not apply to that portion of economic damages in excess of \$1~~
699 ~~million.~~

700 ~~4. For any defendant found more than 50 percent at fault,~~
701 ~~joint and several liability shall not apply to that portion of~~
702 ~~economic damages in excess of \$2 million.~~

703
704 ~~For any defendant under subparagraph 2., subparagraph 3., or~~
705 ~~subparagraph 4., the amount of economic damages calculated under~~
706 ~~joint and several liability shall be in addition to the amount~~
707 ~~of economic and noneconomic damages already apportioned to that~~
708 ~~defendant based on that defendant's percentage of fault.~~

709 ~~(c) With respect to any defendant whose percentage of~~
710 ~~fault is less than the fault of a particular plaintiff, the~~
711 ~~doctrine of joint and several liability shall not apply to any~~
712 ~~damages imposed against the defendant.~~

713 ~~(d) In order to allocate any or all fault to a nonparty, a~~
714 ~~defendant must affirmatively plead the fault of a nonparty and,~~
715 ~~absent a showing of good cause, identify the nonparty, if known,~~

716 ~~or describe the nonparty as specifically as practicable, either~~
 717 ~~by motion or in the initial responsive pleading when defenses~~
 718 ~~are first presented, subject to amendment any time before trial~~
 719 ~~in accordance with the Florida Rules of Civil Procedure.~~

720 ~~(c) In order to allocate any or all fault to a nonparty~~
 721 ~~and include the named or unnamed nonparty on the verdict form~~
 722 ~~for purposes of apportioning damages, a defendant must prove at~~
 723 ~~trial, by a preponderance of the evidence, the fault of the~~
 724 ~~nonparty in causing the plaintiff's injuries.~~

725 (4) APPLICABILITY.--

726 (a) This section applies to negligence cases. For purposes
 727 of this section, "negligence cases" includes, but is not limited
 728 to, civil actions for damages based upon theories of negligence,
 729 strict liability, products liability, professional malpractice
 730 whether couched in terms of contract or tort, or breach of
 731 warranty and like theories, including actions for negligence
 732 against any defendant for failure to prevent commission of an
 733 intentional tort by another. In determining whether a case falls
 734 within the term "negligence cases," the court shall look to the
 735 substance of the action and not the conclusory terms used by the
 736 parties.

737 (b) This section does not apply to any action brought by
 738 any person to recover actual economic damages resulting from
 739 pollution, to any action in which an intentional tortfeasor is
 740 sued and seeks to apportion fault to a negligent tortfeasor
 741 ~~based upon an intentional tort~~, or to any cause of action as to
 742 which application of the doctrine of joint and several liability
 743 is specifically provided by chapter 403, chapter 498, chapter
 744 517, chapter 542, or chapter 895.

745 Section 13. Section 324.031, Florida Statutes, is amended
 746 to read:

747 324.031 Manner of proving financial responsibility.--The
 748 owner or operator of a taxicab, limousine, jitney, or any other
 749 for-hire passenger transportation vehicle may prove financial
 750 responsibility by providing satisfactory evidence of holding a
 751 motor vehicle liability policy as defined in s. 324.021(8) or s.
 752 324.151, which policy is issued by an insurance carrier which is
 753 a member of the Florida Insurance Guaranty Association. The
 754 operator or owner of any other vehicle may prove his or her
 755 financial responsibility by:

756 (1) Furnishing satisfactory evidence of holding a motor
 757 vehicle liability policy as defined in ss. 324.021(8) and
 758 324.151;

759 (2) Posting with the department a satisfactory bond of a
 760 surety company authorized to do business in this state,
 761 conditioned for payment of the amount specified in s.
 762 324.021(7);

763 (3) Furnishing a certificate of the department showing a
 764 deposit of cash or securities in accordance with s. 324.161; or

765 (4) Furnishing a certificate of self-insurance issued by
 766 the department in accordance with s. 324.171.

767
 768 Any person, including any firm, partnership, association,
 769 corporation, or other person, other than a natural person,
 770 electing to use the method of proof specified in subsection (2)
 771 or subsection (3) shall post a bond or deposit equal to the
 772 number of vehicles owned times \$30,000, to a maximum of
 773 \$120,000; in addition, any such person, other than a natural

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774 person, shall maintain insurance providing coverage in excess of
775 limits of \$10,000/20,000/10,000 or \$30,000 combined single
776 limits, and such excess insurance shall provide minimum limits
777 of \$125,000/250,000/50,000 or \$300,000 combined single limits.
778 ~~These increased limits shall not affect the requirements for~~
779 ~~proving financial responsibility under s. 324.032(1).~~

780 Section 14. Sections 324.032 and 768.1257, Florida
781 Statutes, are repealed.

782 Section 15. If any provision of this act or its
783 application to any person or circumstance is held invalid, the
784 invalidity does not affect other provisions or applications of
785 this act which can be given effect without the invalid provision
786 or application, and to this end, the provisions of this act are
787 declared severable.

788 Section 16. This act shall take effect upon becoming a law
789 and shall apply to causes of action that accrue on or after the
790 effective date.