

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Seiler offered the following:

3 **Amendment**

4 Remove lines 253-300 and insert:

5 337.195 Contractor liability; presumptions; limitation of
6 liability.--

7 (1) In a civil action for the death of or injury to a
8 person, or for damage to property, against the Department of
9 Transportation or its agents, consultants, or contractors for
10 work performed on a highway, road, street, bridge, or other
11 transportation facility when the death, injury, or damage
12 resulted from a motor vehicle crash within a construction zone
13 in which a driver of a vehicle was under the influence of
14 alcoholic beverages as set forth in s. 316.193, under the
15 influence of any chemical substance as set forth in s. 877.111,

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16 or illegally under the influence of any substance controlled
17 under chapter 893 to the extent that her or his normal faculties
18 were impaired, it is presumed that such driver's operation of
19 the vehicle was the sole proximate cause of her or his death,
20 injury, or damage. This presumption can be overcome if the gross
21 negligence or intentional misconduct of the Department of
22 Transportation or its agents, consultants, or contractors was a
23 proximate cause of the death, injury, or damage.

24 (2) Once the Department of Transportation has rendered a
25 final acceptance of a completed roadway project, the contractor
26 who constructed or repaired the highway, road, street, or bridge
27 for the department is not liable to a claimant for personal
28 injury, property damage, or death arising from the performance
29 of the construction or repair if, at the time of final
30 acceptance by the department, the contractor was in compliance
31 with all contract documents, Department of Transportation
32 standards, and federal standards material to the condition or
33 defect that was a proximate cause of the personal injury,
34 property damage, or death. This section does not apply to a
35 hidden or undiscoverable condition created by the contractor.

36 (3) In all cases involving personal injury, property
37 damage, or death, a person or entity that contracts to prepare
38 or provide engineering plans for the construction or repair of a
39 highway, road, street, bridge, or other transportation facility
40 for the Department of Transportation shall be presumed to have
41 prepared such engineering plans using the degree of care and
42 skill ordinarily exercised by other engineers in the field under

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43 similar conditions and in similar localities and with due regard
44 for acceptable engineering standards and principles if the
45 engineering plans conformed to the Department of
46 Transportation's design standards material to the condition or
47 defect that was the proximate cause of the personal injury,
48 property damage, or death. Nothing in this subsection shall be
49 interpreted or construed to alter or affect any claim of the
50 Department of Transportation against such person or entity.

51
52 ===== T I T L E A M E N D M E N T =====

53 Remove line 32, and insert:
54 motor vehicle crash within a construction zone; limiting
55 liability under certain circumstances of a contractor who
56 constructed or repaired a highway, road, street, or bridge
57 for the department; limiting