

Bill No. SB 1790

Barcode 735360

CHAMBER ACTION

Senate

House

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Senator Webster moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 768.1382, Florida Statutes, is created to read:

768.1382 Streetlights, security lights, and other similar illumination; limitation on liability.--

(1) As used in this section, the term:

(a) "Actual notice" means notification to the streetlight provider that is acknowledged by the streetlight provider in accordance with its designated procedures by any person of an inoperative or malfunctioning streetlight using the designated procedures specified by the streetlight provider and containing at least the following information:

1. Identification of the streetlight location with such specificity that the location of the streetlight can be identified by the streetlight provider.

2. A description of the nature of the malfunction or

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1 failure of illumination of the streetlight.

2 3. Appropriate contact information, as available,
3 sufficient for the streetlight provider to contact the person
4 making the notification, such as the name and address,
5 electronic mail address, or phone number of the person making
6 the notification.

7 (b) "Designated procedures" means the procedures
8 designated by a streetlight provider to provide actual notice
9 as defined in paragraph (a).

10 (c) "Person" means any legal or natural person as
11 defined in s. 1.01(3).

12 (d) "Streetlight" means any streetlight, any outdoor
13 security light, or any outdoor area light that is owned or
14 maintained by or for a streetlight provider. The term
15 "streetlight" does not include any customer-owned or
16 customer-maintained streetlights, outdoor security lights, or
17 outdoor area lights of any type, regardless of their location.

18 (e) "Streetlight provider" means the state or any of
19 the state's officers, agencies, or instrumentalities, any
20 political subdivision as defined in s. 1.01, any public
21 utility as defined in s. 366.02(1), or any electric utility as
22 defined in s. 366.02(2).

23 (2) A streetlight provider is not liable and may not
24 be held liable for any civil damages for personal injury,
25 wrongful death, or property damage affected or caused by the
26 malfunction or failure of illumination of such streetlight,
27 regardless of whether the malfunction or failure of
28 illumination is alleged or demonstrated to have contributed in
29 any manner to the personal injury, wrongful death, or property
30 damage, unless the provider failed to comply with the
31 provisions of subsection (3).

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1 (3) In order for any streetlight provider to have the
2 benefit of the limitation on liability as set forth in
3 subsection (2), the streetlight provider must have complied
4 with the following:

5 (a) The streetlight provider must disclose its
6 designated procedures for providing actual notice of an
7 inoperative or malfunctioning streetlight to its customers
8 through annual inserts in its customers' bills. The
9 streetlight provider must disclose its designated procedures
10 for providing actual notice of an inoperative or
11 malfunctioning streetlight to the general public, and to its
12 customers if bill inserts are not used, in an annual notice
13 paid for by the streetlight provider and published in the
14 relevant newspapers of general circulation.

15 (b) A streetlight provider must repair any inoperative
16 or malfunctioning streetlight within 60 days after receiving
17 actual notice that the streetlight is inoperative or
18 malfunctioning.

19 (c) If a streetlight provider repairs the inoperative
20 or malfunctioning streetlight and the streetlight subsequently
21 again becomes inoperative or malfunctioning, the streetlight
22 provider shall repair such inoperative or malfunctioning
23 streetlight within 60 days after receiving actual notice that
24 the streetlight is again inoperative or malfunctioning
25 subsequent to the prior repair.

26 (d) After a streetlight provider receives actual
27 notice, investigates the report, and determines that the
28 streetlight is functioning properly, such information shall be
29 noted in the streetlight provider's business records. Upon
30 receipt of any subsequent actual notice that the streetlight
31 is again inoperative or malfunctioning, the streetlight

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1 provider shall repair the streetlight within 60 days after
2 receiving such subsequent actual notice.

3 (e) If, upon investigation by the streetlight provider
4 after receiving actual notice of any event described in
5 paragraph (b), paragraph (c), or paragraph (d), the
6 streetlight provider determines that the nature of the repair
7 or replacement cannot be achieved within the 60-day period,
8 the streetlight provider shall make a determination as to the
9 time in which it can complete the corrective action and denote
10 such time in its business records. Except as provided in
11 paragraph (f), a streetlight provider under this paragraph may
12 not take more than 180 days to complete the corrective action
13 after receiving actual notice unless such longer delay is
14 related to actions or decisions made or required by the
15 customer with the responsibility for paying the utility bill
16 for such streetlight or related to a tornado, a severe weather
17 event, or other unforeseen event resulting in severe damage
18 that does not give rise to a declared state of emergency, in
19 which case the streetlight provider shall be subject to the
20 time periods set forth in paragraph (f).

21 (f) For a streetlight provider operating in a county
22 affected by a state of emergency declared by federal, state,
23 or local authorities, the time periods in paragraph (b),
24 paragraph (c), paragraph (d), or paragraph (e) shall be
25 extended to 365 days after the cessation of the emergency or
26 such longer period of time that may be dictated by the
27 circumstances or 60 days after receiving actual notice that
28 the streetlight is inoperative or malfunctioning, whichever is
29 later.

30 (4) Where the streetlight provider is a public utility
31 or an electric utility, the streetlight provider is not liable

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1 for any civil damages for personal injury, wrongful death, or
 2 property damage affected or caused by the failure of
 3 illumination of such streetlights, regardless of whether the
 4 failure of illumination is alleged or demonstrated to have
 5 contributed in any manner to the personal injury, wrongful
 6 death, or property damage, if the streetlight provider
 7 disconnected electric or gas service to the streetlight upon
 8 the streetlight customer's request or as a result of the
 9 streetlight customer's failure to pay electric or gas bills
 10 when due or other breach of the applicable streetlight
 11 agreement or upon termination of the applicable streetlight
 12 agreement. In no event shall a public utility or electric
 13 utility be liable or held liable for civil damages for
 14 personal injury, wrongful death, or property damage under any
 15 circumstance affected or caused by the design, layout,
 16 quantity, or placement of streetlights or level of
 17 illumination resulting from the proper operation of a
 18 streetlight or series of streetlights.

19 (5) In any civil action for damages arising out of
 20 personal injury, wrongful death, or property damage when a
 21 streetlight provider's fault regarding the provision or
 22 maintenance of streetlights is at issue, if the streetlight
 23 provider responsible for providing or maintaining the
 24 streetlights is immune from liability pursuant to this section
 25 or is not a party to the litigation, such streetlight provider
 26 may not be named on the jury verdict form or be deemed or
 27 found in such action to be in any way at fault or responsible
 28 for the injury or death or damage that gave rise to the
 29 damages.

30 (6) In no event shall a streetlight provider's
 31 noncompliance with the provisions of subsection (3) create a

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1 presumption of negligence on the part of the streetlight
2 provider in any civil action for damages arising out of
3 personal injury, wrongful death, or property damage.

4 (7) In the event that there is any conflict between
5 this section and s. 768.81, or any other section of Florida
6 Statutes, this section shall control. Further, nothing in this
7 section shall impact or waive any provision of s. 768.28.

8 Section 2. This act shall take effect upon becoming a
9 law and shall apply to causes of action that accrue on or
10 after the effective date.

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

14 And the title is amended as follows:

15 Delete everything before the enacting clause

16
17 and insert:

18 A bill to be entitled
19 An act relating to liability of providers of
20 streetlights; creating s. 768.1382, F.S.;
21 providing definitions; including certain
22 security or area lights within the definition
23 of the term "streetlight"; limiting liability
24 of a streetlight provider for injury or death
25 or property damage affected or caused by a
26 malfunctioning streetlight; providing
27 procedures for notice and repair of
28 malfunctioning streetlights as a condition for
29 limited liability; providing that noncompliance
30 with such procedures does not create a
31 presumption of negligence; limiting liability

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1 of a public utility or electric utility that
2 discontinues service to a streetlight under
3 certain circumstances; limiting liability of a
4 public utility or electric utility for the
5 design, layout, quantity, or placement of
6 streetlights or level of illumination resulting
7 from the proper operation of a streetlight or
8 series of streetlights; prohibiting certain
9 findings of fault of an entity not a party to
10 litigation; providing for conflict, effect, and
11 application; providing an effective date.

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