

Bill No. CS for CS for CS for SB 460

Barcode 783266

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

1/AD/2R
05/04/2005 03:03 PM

.
. .
. .
. .
. .
. .

Senator Sebesta moved the following amendment:

Senate Amendment

On page 16, line 1 through page 18, line 2, delete

and insert:

337.195 Limits on liability.--

(1) In a civil action for the death of or injury to a person, or for damage to property, against the Department of Transportation or its agents, consultants, or contractors for work performed on a highway, road, street, bridge, or other transportation facility when the death, injury, or damage resulted from a motor vehicle crash within a construction zone in which the driver of one of the vehicles was under the influence of alcoholic beverages as set forth in s. 316.193, under the influence of any chemical substance as set forth in s. 877.111, or illegally under the influence of any substance controlled under chapter 893 to the extent that her or his normal faculties were impaired or that she or he operated a vehicle recklessly as defined in s. 316.192, it is presumed that the driver's operation of the vehicle was the sole

Bill No. CS for CS for CS for SB 460

Barcode 783266

1 proximate cause of his or her own death, injury, or damage.
 2 This presumption can be overcome if the gross negligence or
 3 intentional misconduct of the Department of Transportation, or
 4 of its agents, consultants, or contractors, was a proximate
 5 cause of the driver's death, injury, or damage.

6 (2) A contractor who constructs, maintains, or repairs
 7 a highway, road, street, bridge, or other transportation
 8 facility for the Department of Transportation is not liable to
 9 a claimant for personal injury, property damage, or death
 10 arising from the performance of the construction, maintenance,
 11 or repair if, at the time of the personal injury, property
 12 damage, or death, the contractor was in compliance with
 13 contract documents material to the condition that was the
 14 proximate cause of the personal injury, property damage, or
 15 death.

16 (a) The limitation on liability contained in this
 17 subsection does not apply when the proximate cause of the
 18 personal injury, property damage, or death is a latent
 19 condition, defect, error, or omission that was created by the
 20 contractor and not a defect, error, or omission in the
 21 contract documents; or when the proximate cause of the
 22 personal injury, property damage or death was the contractor's
 23 failure to perform, update or comply with the maintenance of
 24 traffic safety plan as required by the contract documents.

25 (b) Nothing in this subsection shall be interpreted or
 26 construed as relieving the contractor of any obligation to
 27 provide the Department of Transportation with written notice
 28 of any apparent error or omission in the contract documents.

29 (c) Nothing in this subsection shall be interpreted or
 30 construed to alter or affect any claim of the Department of
 31 Transportation against such contractor.

Bill No. CS for CS for CS for SB 460

Barcode 783266

1 (d) This subsection does not affect any claim of any
2 entity against such contractor, which claim is associated with
3 such entity's facilities on or in Department of Transportation
4 roads or other transportation facilities.

5 (3) In all cases involving personal injury, property
6 damage, or death, a person or entity who contracts to prepare
7 or provide engineering plans for the construction or repair of
8 a highway, road, street, bridge, or other transportation
9 facility for the Department of Transportation shall be
10 presumed to have prepared such engineering plans using the
11 degree of care and skill ordinarily exercised by other
12 engineers in the field under similar conditions and in similar
13 localities and with due regard for acceptable engineering
14 standards and principles if the engineering plans conformed to
15 the Department of Transportation's design standards material
16 to the condition or defect that was the proximate cause of the
17 person injury, property damage, or death. This presumption can
18 be overcome only upon a showing of the person's or entity's
19 gross negligence in the preparation of the engineering plans
20 and shall not be interpreted or construed to alter or affect
21 any claim of the Department of Transportation against such
22 person or entity. The limitation on liability contained in
23 this subsection shall not apply to any hidden or
24 undiscoverable condition created by the engineer.

25 (a) This subsection does not affect any claim of any
26 entity against such engineer or engineering firm, which claim
27 is associated with such entity's facilities on or in
28 Department of Transportation roads or other transportation
29 facilities.

30
31