

By Senator Baker

20-113-07

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A bill to be entitled

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

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

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

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

WHEREAS, Michael Kulik, an inexperienced driver with less than 1 year of total driving experience, pulled the vehicle off the road onto a shoulder still within the construction zone at a point where there was no emergency lane, and

WHEREAS, the left rear tire of the vehicle came to rest on asphalt less than 6 inches off the right white line

1 delineating the shoulder of the road, with the left front tire
2 approximately 18 inches onto the shoulder, and

3 WHEREAS, the two right wheels came to rest on grass due
4 to the narrow shoulder created by ongoing construction in that
5 area, and

6 WHEREAS, a large grassy area separated the roadway from
7 a large rest area, and

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

11 WHEREAS, the Florida Highway Patrol Trooper, James
12 Bond, in pulling the vehicle over, parked his vehicle
13 approximately 15 feet off of the roadway, and

14 WHEREAS, the pictures of the accident scene do not
15 depict where Trooper Bond was parked at the time of the
16 accident because he moved his vehicle after the fact, and

17 WHEREAS, Trooper Bond stated in deposition testimony
18 that he noticed the proximity of the Kulik vehicle to the
19 lanes of traffic and recognized the danger, but he did not
20 feel it necessary to instruct Michael Kulik to move the
21 vehicle further from the roadway because he felt that the
22 family posed a flight risk, and

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

26 WHEREAS, Trooper Bond further failed to position his
27 marked cruiser in a manner so as to alert oncoming motorists
28 of the hazard he created and over which he had control,
29 instead choosing to pull his automobile far off the roadway to
30 an area of safety, and

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1 WHEREAS, Trooper Bond approached the Kulik vehicle from
2 the passenger side and engaged the driver through the
3 passenger window, and

4 WHEREAS, when asked at trial, Trooper Bond testified
5 that approaching the Kulik vehicle from the driver's side
6 would have placed him in danger of passing motorists, and

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

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

14 WHEREAS, Trooper Bond denied memory of any profanity,
15 and

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

19 WHEREAS, Timothy Kulik exited his seat and walked
20 around the rear of the vehicle, heading up the driver's side
21 of the Chevrolet Suburban, and

22 WHEREAS, Timothy Kulik passed his son Michael near the
23 rear wheel and walked to the front door which had been left
24 ajar by his son, and

25 WHEREAS, unfortunately, Timothy Kulik has no memory of
26 events from this point on, and

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

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

1 WHEREAS, Timothy Kulik's left arm was practically
2 severed in the impact, and

3 WHEREAS, as the motor home passed, it dragged Timothy
4 Kulik and the door forward at high speed, throwing him around
5 the door and forward onto the pavement in front of the truck,
6 and

7 WHEREAS, the highway patrol policies and procedures
8 clearly stated that a trooper is not to hesitate to direct a
9 stopped motorist to an area of safety before instituting
10 enforcement action, and

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

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

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

21 WHEREAS, because of a defense error, Trooper Bond's
22 employment file was discussed in court and, as a result, it
23 was revealed that Trooper Bond had been sanctioned more than
24 once for displaying a very poor attitude, a fact that was key
25 to substantiating Timothy Kulik's testimony that Trooper Bond
26 was very abrasive when he approached the vehicle and baited
27 Timothy Kulik into retaliating, and

28 WHEREAS, an emergency room physician and his wife, an
29 emergency room nurse, were the first persons on the scene of
30 the accident, and
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1 WHEREAS, the couple rendered trauma care and assisted
2 in stemming the tide of Timothy Kulik's profuse bleeding until
3 local emergency teams arrived, and

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

6 WHEREAS, Dr. Kulik's arm, from the shoulder down to the
7 wrist, was mangled, and no use of his hand or arm was possible
8 for many months, and

9 WHEREAS, Timothy Kulik underwent seven or eight
10 significant surgical procedures, and

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

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

16 WHEREAS, Dr. Timothy Kulik was a dentist in South Bend,
17 Indiana from 1976 to the present, opening his own practice in
18 1995, and

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

24 WHEREAS, at trial, it was the intent of Timothy Kulik's
25 legal representatives to prove that the motor home operator
26 was negligent, minimizing the role of Trooper Bond after the
27 first 2 days of testimony, and

28 WHEREAS, for the remainder of the trial Timothy Kulik's
29 attorneys concentrated on the motor home operator's actions,
30 including during the closing argument when it was suggested
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1 that the jury find the Florida Highway Patrol minimally
2 negligent, and

3 WHEREAS, despite this, the jury returned with a verdict
4 attributing 0-percent negligence to the motor home operator,
5 approximately 46-percent negligence to Trooper Bond, and
6 54-percent negligence to Timothy Kulik, and

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

10 WHEREAS, after reductions for comparative fault,
11 judgment was entered against the Department of Highway Safety
12 and Motor Vehicles in the sum of \$1,437,500 for damages
13 incurred by Timothy Kulik and \$23,000 for damages incurred by
14 Theresa Ann Kulik, NOW, THEREFORE,

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

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

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

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

28 Section 4. The Chief Financial Officer is directed to
29 draw a warrant in favor of Timothy Kulik in the sum of
30 \$1,437,500 upon funds of the Department of Highway Safety and
31

1 Motor Vehicles and to pay the same out of funds in the State
2 Treasury.

3 Section 5. The Chief Financial Officer is directed to
4 draw a warrant in favor of Theresa Ann Kulik in the sum of
5 \$23,000 upon funds of the Department of Highway Safety and
6 Motor Vehicles and to pay the same out of funds in the State
7 Treasury.

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

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SENATE SUMMARY

Appropriates funds to compensate Dr. Timothy Kulik and
Theresa Ann Kulik for injuries sustained as a result of
the negligence of an employee of the Department of
Highway Safety and Motor Vehicles.