

1                   A bill to be entitled  
2           An act for the relief of Timothy Kulik and Theresa Ann  
3           Kulik by the Department of Highway Safety and Motor  
4           Vehicles; providing an appropriation to compensate them  
5           for injuries and damages sustained as a result of the  
6           negligence of the Department of Highway Safety and Motor  
7           Vehicles; providing an effective date.

8  
9           WHEREAS, on March 30, 1996, Dr. Timothy Kulik, a dentist  
10          from South Bend, Indiana, and his family, including his wife  
11          Theresa Ann Kulik and their two teenage children, were en route  
12          from Indiana to South Florida on Interstate 75, and

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

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

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

26          WHEREAS, the left rear tire of the vehicle came to rest on  
27          asphalt less than 6 inches off the right white line delineating  
28          the shoulder of the road, with the left front tire approximately

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29 | 18 inches onto the shoulder, and

30 |       WHEREAS, the two right wheels came to rest on grass due to  
31 | the narrow shoulder created by ongoing construction in that  
32 | area, and

33 |       WHEREAS, a large grassy area separated the roadway from a  
34 | large rest area, and

35 |       WHEREAS, testimony indicated that the swale was gentle and  
36 | dry, allowing for vehicles to pull well off the road without  
37 | risk of getting struck, and

38 |       WHEREAS, the Florida Highway Patrol Trooper, James Bond, in  
39 | pulling the vehicle over, parked his vehicle approximately 15  
40 | feet off of the roadway, and

41 |       WHEREAS, the pictures of the accident scene do not depict  
42 | where Trooper Bond was parked at the time of the accident  
43 | because he moved his vehicle after the fact, and

44 |       WHEREAS, Trooper Bond stated in deposition testimony that  
45 | he noticed the proximity of the Kulik vehicle to the lanes of  
46 | traffic and recognized the danger, but he did not feel it  
47 | necessary to instruct Michael Kulik to move the vehicle further  
48 | from the roadway because he felt that the family posed a flight  
49 | risk, and

50 |       WHEREAS, Trooper Bond did have available a bullhorn to hail  
51 | motorists from inside his vehicle but testified that his  
52 | supervisors had discouraged its use, and

53 |       WHEREAS, Trooper Bond further failed to position his marked  
54 | cruiser in a manner so as to alert oncoming motorists of the  
55 | hazard he created and over which he had control, instead  
56 | choosing to pull his automobile far off the roadway to an area

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57 | of safety, and

58 |       WHEREAS, Trooper Bond approached the Kulik vehicle from the  
59 | passenger side and engaged the driver through the passenger  
60 | window, and

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

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

69 |       WHEREAS, Timothy Kulik testified that he used some  
70 | profanity when told to shut up by Trooper Bond, and

71 |       WHEREAS, Trooper Bond denied memory of any profanity, and

72 |       WHEREAS, when the ticket had been issued, Timothy Kulik  
73 | offered to replace Michael Kulik as the driver because the son  
74 | was noticeably shaken by the incident, and

75 |       WHEREAS, Timothy Kulik exited his seat and walked around  
76 | the rear of the vehicle, heading up the driver's side of the  
77 | Chevrolet Suburban, and

78 |       WHEREAS, Timothy Kulik passed his son Michael near the rear  
79 | wheel and walked to the front door which had been left ajar by  
80 | his son, and

81 |       WHEREAS, unfortunately, Timothy Kulik has no memory of  
82 | events from this point on, and

83 |       WHEREAS, expert testimony revealed that Timothy Kulik  
84 | opened the driver's door using his left hand, and

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

88 WHEREAS, Timothy Kulik's left arm was practically severed  
89 in the impact, and

90 WHEREAS, as the motor home passed, it dragged Timothy Kulik  
91 and the door forward at high speed, throwing him around the door  
92 and forward onto the pavement in front of the truck, and

93 WHEREAS, the highway patrol policies and procedures clearly  
94 stated that a trooper is not to hesitate to direct a stopped  
95 motorist to an area of safety before instituting enforcement  
96 action, and

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

100 WHEREAS, Trooper Bond also allowed that, in his more than  
101 20-year career, he often saw motorists change drivers following  
102 a traffic stop, and

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

106 WHEREAS, because of a defense error, Trooper Bond's  
107 employment file was discussed in court and, as a result, it was  
108 revealed that Trooper Bond had been sanctioned more than once  
109 for displaying a very poor attitude, a fact that was key to  
110 substantiating Timothy Kulik's testimony that Trooper Bond was  
111 very abrasive when he approached the vehicle and baited Timothy  
112 Kulik into retaliating, and

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113 WHEREAS, an emergency room physician and his wife, an  
114 emergency room nurse, were the first persons on the scene of the  
115 accident, and

116 WHEREAS, the couple rendered trauma care and assisted in  
117 stemming the tide of Timothy Kulik's profuse bleeding until  
118 local emergency teams arrived, and

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

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

124 WHEREAS, Timothy Kulik underwent seven or eight significant  
125 surgical procedures, and

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

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

131 WHEREAS, Dr. Timothy Kulik was a dentist in South Bend,  
132 Indiana from 1976 to the present, opening his own practice in  
133 1995, and

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

139 WHEREAS, at trial, it was the intent of Timothy Kulik's  
140 legal representatives to prove that the motor home operator was

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141 negligent, minimizing the role of Trooper Bond after the first 2  
 142 days of testimony, and

143 WHEREAS, for the remainder of the trial Timothy Kulik's  
 144 attorneys concentrated on the motor home operator's actions,  
 145 including during the closing argument when it was suggested that  
 146 the jury find the Florida Highway Patrol minimally negligent,  
 147 and

148 WHEREAS, despite this, the jury returned with a verdict  
 149 attributing 0-percent negligence to the motor home operator,  
 150 approximately 46-percent negligence to Trooper Bond, and 54-  
 151 percent negligence to Timothy Kulik, and

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

155 WHEREAS, after reductions for comparative fault, judgment  
 156 was entered against the Department of Highway Safety and Motor  
 157 Vehicles in the sum of \$1,437,500 for damages incurred by  
 158 Timothy Kulik and \$23,000 for damages incurred by Theresa Ann  
 159 Kulik, NOW, THEREFORE,

160

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

162

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

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

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

173           Section 4. The Chief Financial Officer is directed to draw  
174 a warrant in favor of Timothy Kulik in the sum of \$1,437,500  
175 upon funds of the Department of Highway Safety and Motor  
176 Vehicles in the State Treasury, and the Chief Financial Officer  
177 is directed to pay the same out of such funds in the State  
178 Treasury.

179           Section 5. The Chief Financial Officer is directed to draw  
180 a warrant in favor of Theresa Ann Kulik in the sum of \$23,000  
181 upon funds of the Department of Highway Safety and Motor  
182 Vehicles in the State Treasury, and the Chief Financial Officer  
183 is directed to pay the same out of such funds in the State  
184 Treasury.

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