

By Senator Margolis

35-00142-08

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1 A bill to be entitled

2 An act relating to the Department of Transportation;
3 providing an appropriation to compensate the estate of Dr.
4 Sherrill Lynn Aversa for the death of Dr. Sherrill Lynn
5 Aversa, which was the result of negligence by an employee
6 of the department; providing for attorney's fees and
7 costs; providing a limitation on the payment of fees and
8 costs; providing an effective date.

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10 WHEREAS, on June 21, 1999, an employee of the Department of
11 Transportation was driving a departmental truck northbound on
12 Interstate 75 in Hillsborough County, Florida, and

13 WHEREAS, on that same day, Dr. Sherrill Lynn Aversa, having
14 completed an interview with the University of South Florida
15 Medical School, was traveling south on Interstate 75, and

16 WHEREAS, by departmental policy, employees of the department
17 are required to ensure that all items used by the department and
18 stored on the truck are appropriately secured to the truck, and

19 WHEREAS, one such item used by the department and stored on
20 the truck was a 12-foot extension ladder stored on the top of the
21 truck, and

22 WHEREAS, the department's employee failed to ensure that the
23 ladder was secured to the truck before leaving the department's
24 maintenance yard, and

25 WHEREAS, thereafter, while the employee traveled northbound
26 on Interstate 75, the extension ladder flew from the roof of the
27 truck into the northbound traffic following the department's
28 truck, and

29 WHEREAS, the driver to the rear of the department's truck

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30 swerved to avoid hitting the extension ladder which came directly
31 at the driver in her lane of Interstate 75, and

32 WHEREAS, as a result of the swerving movements, the driver
33 of the car behind the department's truck lost control of her
34 vehicle, veered to the left, crossed the Interstate 75 median,
35 and struck Dr. Aversa's vehicle, killing Dr. Aversa instantly,
36 and

37 WHEREAS, as a result of these events, the estate of Dr.
38 Aversa brought suit against the Department of Transportation for
39 the negligence causing the death of Dr. Aversa, and

40 WHEREAS, after 3 years of litigation, the department
41 admitted liability for the accident and agreed to settle the
42 case, and

43 WHEREAS, the parties agreed to a consent judgment solely
44 against the department, with no comparative negligence finding
45 against any other party, in the amount of \$797,500, and

46 WHEREAS, the Department of Transportation has paid \$100,000
47 to the estate of Dr. Sherrill Lynn Aversa under the statutory
48 limits of liability set forth in s. 768.28, Florida Statutes,
49 NOW, THEREFORE,

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. The facts stated in the preamble to this act are
54 found and declared to be true.

55 Section 2. The sum of \$697,500 is appropriated from the
56 General Revenue Fund to the Department of Transportation, which
57 amount includes attorney's fees and costs, as compensation to the
58 estate of Dr. Sherrill Lynn Aversa for the death of Dr. Aversa.

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59 Section 3. The Chief Financial Officer is directed to draw
60 a warrant in favor of the estate of Dr. Sherrill Lynn Aversa in
61 the sum of \$697,500 upon funds of the Department of
62 Transportation not otherwise encumbered, and the Chief Financial
63 Officer is directed to pay the same out of such funds in the
64 State Treasury.

65 Section 4. This award is intended to provide the sole
66 compensation for all present and future claims arising out of the
67 factual situation described in this act which resulted in the
68 death of Dr. Sherrill Lynn Aversa. The total amount paid for
69 attorney's fees, lobbying fees, costs, and other similar expenses
70 relating to this claim may not exceed 25 percent of the amount
71 awarded under this act.

72 Section 5. This act shall take effect upon becoming a law.