

By Senator Baker

20-00172-08

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1 A bill to be entitled

2 An act relating to the Department of Highway Safety and
3 Motor Vehicles; providing for the relief of Timothy Kulik
4 and Theresa Ann Kulik; providing an appropriation to
5 compensate them for injuries and damages sustained as a
6 result of the negligence of the department; providing a
7 limitation on the payment of fees and costs; providing an
8 effective date.

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

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

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

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

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

20-00172-08

200852__

30 | 18 inches onto the shoulder, and

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

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

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

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

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

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

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

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

20-00172-08

200852__

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

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

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

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

72 WHEREAS, Trooper Bond denied memory of any profanity, and

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

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

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

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

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

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

20-00172-08

200852__

88 | between the door and motor home, and

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

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

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

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

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

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

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

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

20-00172-08

200852__

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

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

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

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

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

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

132 WHEREAS, Dr. Timothy Kulik was a dentist in South Bend,
133 Indiana from 1976 to the present, opening his own practice in
134 1995, and

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

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

144 WHEREAS, for the remainder of the trial Timothy Kulik's
145 attorneys concentrated on the motor home operator's actions,

20-00172-08

200852__

146 including during the closing argument when it was suggested that
147 the jury find the Florida Highway Patrol minimally negligent, 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 of
153 \$3,125,000 for Timothy Kulik and \$50,000 for Theresa Ann Kulik
154 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 Timothy
158 Kulik and \$23,000 for damages incurred by Theresa Ann Kulik, NOW,
159 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 are
164 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.

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 upon

20-00172-08

200852__

175 funds of the Department of Highway Safety and Motor Vehicles and
176 to pay the same out of funds in the State Treasury.

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

181 Section 6. The amounts awarded in this act are intended to
182 provide the sole compensation for all present and future claims
183 arising out of the factual situation described in this act which
184 resulted in injury to Dr. Timothy Kulik. The total amount paid
185 for attorney's fees, lobbying fees, costs, and other similar
186 expenses relating to this claim may not exceed 25 percent of the
187 total amount awarded under this act.

188 Section 7. This act shall take effect upon becoming a law.