

HB 537

2009

1 A bill to be entitled
2 An act for the relief of Dr. Sherrill Lynn Aversa,
3 deceased; providing an appropriation to compensate the
4 estate of Dr. Sherrill Lynn Aversa for the death of Dr.
5 Sherrill Lynn Aversa as the result of negligence by an
6 employee of the Department of Transportation; providing
7 for attorney's fees and costs; providing a limitation on
8 attorney's fees, lobbying fees, costs, and other similar
9 expenses relating to the claim; providing an effective
10 date.

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

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

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

22 WHEREAS, one such item used by the department and stored on
23 the truck was a 12-foot extension ladder stored on the top of
24 the truck, and

25 WHEREAS, the department's employee failed to ensure that
26 the ladder was secured to the truck before leaving the
27 department's maintenance yard, and

28 WHEREAS, thereafter, while the employee traveled northbound

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29 on Interstate 75, the extension ladder flew from the roof of the
 30 truck into the northbound traffic following the department's
 31 truck, and

32 WHEREAS, the driver to the rear of the department's truck
 33 swerved to avoid hitting the extension ladder, which came
 34 directly at the driver in her lane of Interstate 75, and

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

40 WHEREAS, as a result of these events, the estate of Dr.
 41 Aversa brought suit against the Department of Transportation for
 42 the negligence causing the death of Dr. Aversa, and

43 WHEREAS, after 3 years of litigation, the department
 44 admitted liability for the accident and agreed to settle the
 45 case, and

46 WHEREAS, the parties agreed to a consent judgment solely
 47 against the department, with no comparative negligence finding
 48 against any other party, in the amount of \$800,000, and

49 WHEREAS, the Department of Transportation has paid \$150,000
 50 to the estate of Dr. Sherrill Lynn Aversa, and her husband, Lee
 51 A. Crandall, under the statutory limits of liability set forth
 52 in section 768.28, Florida Statutes, NOW, THEREFORE,

53

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

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56 Section 1. The facts stated in the preamble to this act

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57 are found and declared to be true.

58 Section 2. The Executive Office of the Governor is
59 directed to establish spending authority from unappropriated
60 trust fund balances of the Department of Transportation in the
61 amount of \$650,000 to a new category titled "Relief: Estate of
62 Dr. Sherrill Lynn Aversa" as relief for injuries and damages
63 sustained, which amount includes attorney's fees and costs.

64 Section 3. The Chief Financial Officer is directed to draw
65 a warrant, pursuant to the Stipulated Settlement Agreement
66 executed by the Department of Transportation and the personal
67 representative of the estate of Dr. Sherrill Lynn Aversa, in the
68 sum of \$650,000 upon funds of the Department of Transportation
69 in the State Treasury, and the Chief Financial Officer is
70 directed to pay the same out of such funds in the State
71 Treasury.

72 Section 4. Any amount awarded under this act pursuant to
73 the waiver of sovereign immunity permitted under s. 768.28,
74 Florida Statutes, and this award is intended to provide the sole
75 compensation for all present and future claims arising out of
76 the factual situation described in the preamble to this act
77 which resulted in the death of Dr. Sherrill Lynn Aversa. The
78 total amount paid for attorney's fees, lobbying fees, costs, and
79 other similar expenses relating to this claim may not exceed 25
80 percent of the amount awarded under section.

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