

By Senator Siplin

19-00071-11

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1 A bill to be entitled

2 An act for the relief of Timothy Kulik and Theresa Ann
3 Kulik; providing an appropriation to compensate them
4 for injuries and damages sustained as a result of the
5 negligence of an employee of the Department of Highway
6 Safety and Motor Vehicles; providing a limitation on
7 the payment of fees and costs; providing an effective
8 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
15 the family vehicle as the Kuliks traveled Interstate 75 in
16 Columbia County, heading southbound within an extended
17 construction zone, and

18 WHEREAS, Michael Kulik had been following a grey van in the
19 right-hand lane for some time, keeping up with traffic, when
20 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
24 less than 1 year of total driving experience, pulled the vehicle
25 off the road onto the shoulder still within the construction
26 zone at a 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

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30 18 inches onto the shoulder, and

31 WHEREAS, Florida Highway Patrol Trooper James Bond parked
32 his vehicle about 15 feet off of the roadway in a large grassy
33 area that separated the roadway from a rest area, and

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

37 WHEREAS, Trooper Bond stated at deposition that he noticed
38 the proximity of the Kulik vehicle to the lanes of traffic and
39 recognized the danger, but he did not feel it necessary to
40 instruct Michael Kulik to move the vehicle further off the
41 roadway because he felt that the family posed a flight risk, and

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

45 WHEREAS, Trooper Bond further failed to position his marked
46 cruiser in a manner so as to alert oncoming motorists of the
47 hazard he created and over which he had control, and

48 WHEREAS, Trooper Bond approached the Kulik vehicle from the
49 passenger side and engaged the driver through the passenger
50 window, and

51 WHEREAS, at trial, Trooper Bond testified that approaching
52 the Kulik vehicle from the driver's side would have placed him
53 in danger of being struck by passing motorists, and

54 WHEREAS, Timothy Kulik was in the front passenger seat and
55 was notably agitated, voicing his displeasure to Trooper Bond
56 during the stop, and

57 WHEREAS, after the ticket had been issued, Timothy Kulik
58 offered to replace Michael Kulik as the driver of the vehicle

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59 because the son was noticeably shaken by the incident, and

60 WHEREAS, Timothy Kulik exited his seat and walked around
61 the rear of the vehicle, moving up the driver's side of the
62 Chevrolet Suburban, and

63 WHEREAS, Timothy Kulik passed his son Michael near the rear
64 wheel and walked to the front door which had been left ajar by
65 his son, and

66 WHEREAS, unfortunately, Timothy Kulik has no memory of
67 events from this point on, and

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

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

73 WHEREAS, Timothy Kulik's left arm was practically severed
74 in the impact, and

75 WHEREAS, as the motor home passed, it dragged Timothy Kulik
76 and the door forward at high speed, throwing him around the door
77 and forward onto the pavement in front of the Suburban, and

78 WHEREAS, the highway patrol policies and procedures clearly
79 stated that a trooper is not to hesitate to direct a stopped
80 motorist to an area of safety before instituting enforcement
81 action, and

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

85 WHEREAS, Trooper Bond also testified that, in his more than
86 20-year career, he often saw motorists change drivers following
87 a traffic stop, and

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

91 WHEREAS, an emergency room physician and his wife, an
92 emergency room nurse, were the first persons on the scene of the
93 accident, and

94 WHEREAS, the couple rendered trauma care and assisted in
95 stemming Timothy Kulik's profuse bleeding until local emergency
96 teams arrived, and

97 WHEREAS, Dr. Timothy Kulik's left arm was shattered by the
98 impact of the accident, and

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

102 WHEREAS, Timothy Kulik underwent seven or eight significant
103 surgical procedures, and

104 WHEREAS, muscle transpositions have helped Dr. Kulik regain
105 simple grasp functions, but overall there is no dexterity to the
106 left hand and minimal range of motion to the arm, and

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

109 WHEREAS, Dr. Timothy Kulik was a dentist in South Bend,
110 Indiana, from 1976 to the present, opening his own practice in
111 1995, and

112 WHEREAS, dentistry is a profession requiring the full use
113 of both hands, which means that Dr. Kulik is extremely limited
114 in the types of procedures he can perform and is unable to
115 perform more costly and meticulous procedures such as crown
116 placement, and

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

121 WHEREAS, for the remainder of the trial Timothy Kulik's
122 attorneys concentrated on the motor home operator's actions,
123 suggesting during the closing argument that the jury find the
124 Florida Highway Patrol minimally negligent, and

125 WHEREAS, despite this, the jury returned with a verdict
126 attributing 0 percent negligence to the motor home operator,
127 approximately 46 percent negligence to Trooper Bond, and 54
128 percent negligence to Timothy Kulik, and

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

132 WHEREAS, after reductions for comparative fault, judgment
133 was entered against the Department of Highway Safety and Motor
134 Vehicles in the sum of \$1,437,500 for damages incurred by
135 Timothy Kulik and \$23,000 for damages incurred by Theresa Ann
136 Kulik, NOW, THEREFORE,

137
138 Be It Enacted by the Legislature of the State of Florida:

139
140 Section 1. The facts stated in the preamble to this act are
141 found and declared to be true.

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

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

150 Section 4. The Chief Financial Officer is directed to draw
151 a warrant in favor of Timothy Kulik in the sum of \$1,437,500
152 upon funds of the Department of Highway Safety and Motor
153 Vehicles in the State Treasury, and the Chief Financial Officer
154 is directed to pay the same out of such funds in the State
155 Treasury.

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

160 Section 6. The amounts awarded under this act are intended
161 to provide the sole compensation for all present and future
162 claims arising out of the factual situation described in this
163 act which resulted in injury to Dr. Timothy Kulik. The total
164 amount paid for attorney's fees, lobbying fees, costs, and other
165 similar expenses relating to this claim may not exceed 25
166 percent of the total amount awarded under this act.

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