

By Senator Altman

16-00081-14

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1 A bill to be entitled
2 An act for the relief of the Estate of Dr. Sherrill
3 Lynn Aversa; providing an appropriation to compensate
4 the Estate of Dr. Sherrill Lynn Aversa for Dr.
5 Aversa's death as result of the negligence of the
6 Department of Transportation; requiring the Executive
7 Office of the Governor to establish spending authority
8 from unappropriated trust fund balances of the
9 department for compensation to the Estate of Dr.
10 Sherrill Lynn Aversa; providing for attorney fees and
11 costs; providing a limitation on the payment of fees
12 and costs; providing an effective date.

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14 WHEREAS, on June 21, 1999, an employee of the Department of
15 Transportation was driving the department's truck northbound on
16 Interstate 75 in Hillsborough County, Florida, and

17 WHEREAS, on that same day, Dr. Sherrill Lynn Aversa, having
18 completed an interview at the University of South Florida
19 Medical School, was traveling southbound on Interstate 75, and

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

24 WHEREAS, one such item used by the department was a 12-foot
25 extension ladder stored on the top of the truck, and the
26 department's employee failed to ensure that the ladder was
27 secured to the truck before leaving the department's maintenance
28 yard, and

29 WHEREAS, thereafter, while the employee traveled northbound

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

33 WHEREAS, the driver of the vehicle traveling behind the
34 department's truck swerved to avoid hitting the extension
35 ladder, which was ejected directly at the driver in her lane of
36 traffic, and

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

42 WHEREAS, as a result of these events, the Estate of Dr.
43 Aversa brought suit against the department for the negligence
44 causing the death of Dr. Aversa, and

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

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

52 WHEREAS, the Department of Transportation has paid \$100,000
53 to the Estate of Dr. Sherrill Lynn Aversa under the statutory
54 limits of liability set forth in s. 768.28, Florida Statutes,
55 NOW, THEREFORE,

56

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

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

61 Section 2. The Executive Office of the Governor is directed
62 to establish spending authority from unappropriated trust fund
63 balances of the Department of Transportation in the amount of
64 \$697,500 to a new category titled "Relief: Estate of Dr.
65 Sherrill Lynn Aversa" as compensation to the Estate of Dr.
66 Sherrill Lynn Aversa for the death of Dr. Aversa, which amount
67 includes attorney fees and costs.

68 Section 3. The Chief Financial Officer is directed to draw
69 a warrant in favor of the Estate of Dr. Sherrill Lynn Aversa in
70 the sum of \$697,500 upon funds of the Department of
71 Transportation not otherwise encumbered, and the Chief Financial
72 Officer is directed to pay the same sum out of such funds in the
73 State Treasury.

74 Section 4. The amount paid by the Department of
75 Transportation pursuant to s. 768.28, Florida Statutes, and the
76 amount awarded under this act are intended to provide the sole
77 compensation for this excess judgment claim and for all other
78 present and future claims arising out of the factual situation
79 described in this act which resulted in the death of Dr.
80 Sherrill Lynn Aversa. The total amount paid for attorney fees,
81 lobbying fees, costs, and other similar expenses relating to
82 this claim may not exceed 25 percent of the amount awarded under
83 this act.

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