

By the Committee on Judiciary; and Senator Altman

590-03312-16

201614c1

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 a 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 attorney fees and
11 costs and a limitation on such fees and costs;
12 providing an effective date.

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14 WHEREAS, on June 21, 1999, an employee of the Department of
15 Transportation was driving a department vehicle northbound on
16 Interstate 75 in Hillsborough County, 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 department vehicle are appropriately
23 secured, and

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

29 WHEREAS, as the employee traveled northbound on Interstate
30 75 in the department vehicle, the extension ladder flew off the
31 roof into the northbound traffic traveling behind it, and

32 WHEREAS, the driver of the vehicle traveling behind the

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33 department vehicle swerved to avoid hitting the ladder and, as a
34 result of the swerving movement, lost control of her vehicle,
35 veered to the left, crossed the Interstate 75 median, and struck
36 Dr. Aversa's vehicle, killing Dr. Aversa instantly, and

37 WHEREAS, as a result of these events, the Estate of Dr.
38 Sherrill Lynn Aversa brought suit against the department for its
39 negligence in 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 in the
44 amount of \$800,000 solely against the department, with no
45 finding of comparative negligence against any other party, and

46 WHEREAS, the department has paid \$150,000 to the Estate of
47 Dr. Aversa consistent with the statutory limits of liability set
48 forth in s. 768.28, Florida Statutes, NOW, THEREFORE,

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

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

54 Section 2. The Executive Office of the Governor is directed
55 to establish spending authority from unappropriated trust fund
56 balances of the Department of Transportation in the amount of
57 \$650,000 to a new category titled "Relief: Estate of Dr.
58 Sherrill Lynn Aversa" as compensation to the Estate of Dr.
59 Sherrill Lynn Aversa for the death of Dr. Sherrill Lynn Aversa,
60 which amount includes attorney fees and costs.

61 Section 3. The Chief Financial Officer is directed to draw

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62 a warrant, pursuant to the stipulated settlement agreement
63 executed by the Department of Transportation and the personal
64 representative of the estate of Dr. Sherrill Lynn Aversa, in the
65 amount of \$650,000 upon funds of the Department of
66 Transportation not otherwise encumbered, and the Chief Financial
67 Officer is directed to pay the same sum out of such funds in the
68 State Treasury.

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

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