



574662

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
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The Committee on Infrastructure and Security (Lee) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. The Legislature finds that absent negligence or criminal conduct by a motor vehicle dealer, or its leasing or rental affiliates, subjecting motor vehicle dealers and their leasing and rental affiliates to vicarious liability under the dangerous instrumentality doctrine when a temporary replacement vehicle is provided to a consumer is both unfair and



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11 economically disadvantageous in that it causes dealers and their  
12 leasing or rental affiliates to suffer higher insurance costs,  
13 which are then passed on to consumers. Additionally, application  
14 of the vicarious liability doctrine in such cases often serves  
15 to relieve the actual tortfeasor from liability.

16 Section 2. Paragraph (c) of subsection (9) of section  
17 324.021, Florida Statutes, is amended to read:

18 324.021 Definitions; minimum insurance required.—The  
19 following words and phrases when used in this chapter shall, for  
20 the purpose of this chapter, have the meanings respectively  
21 ascribed to them in this section, except in those instances  
22 where the context clearly indicates a different meaning:

23 (9) OWNER; OWNER/LESSOR.—

24 (c) *Application*.—

25 1. The limits on liability in subparagraphs (b)2. and 3. do  
26 not apply to an owner of motor vehicles that are used for  
27 commercial activity in the owner's ordinary course of business,  
28 other than a rental company that rents or leases motor vehicles.  
29 For purposes of this paragraph, the term "rental company"  
30 includes only an entity that is engaged in the business of  
31 renting or leasing motor vehicles to the general public and that  
32 rents or leases a majority of its motor vehicles to persons with  
33 no direct or indirect affiliation with the rental company. The  
34 term also includes a motor vehicle dealer that provides  
35 temporary replacement vehicles to its customers for up to 10  
36 days. The term "rental company" also includes:

37 a. A related rental or leasing company that is a subsidiary  
38 of the same parent company as that of the renting or leasing  
39 company that rented or leased the vehicle.



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40           b. The holder of a motor vehicle title or an equity  
41 interest in a motor vehicle title if the title or equity  
42 interest is held pursuant to or to facilitate an asset-backed  
43 securitization of a fleet of motor vehicles used solely in the  
44 business of renting or leasing motor vehicles to the general  
45 public and under the dominion and control of a rental company,  
46 as described in this subparagraph, in the operation of such  
47 rental company's business.

48           2. Furthermore, with respect to commercial motor vehicles  
49 as defined in s. 627.732, the limits on liability in  
50 subparagraphs (b)2. and 3. do not apply if, at the time of the  
51 incident, the commercial motor vehicle is being used in the  
52 transportation of materials found to be hazardous for the  
53 purposes of the Hazardous Materials Transportation Authorization  
54 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is  
55 required pursuant to such act to carry placards warning others  
56 of the hazardous cargo, unless at the time of lease or rental  
57 either:

58           a. The lessee indicates in writing that the vehicle will  
59 not be used to transport materials found to be hazardous for the  
60 purposes of the Hazardous Materials Transportation Authorization  
61 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

62           b. The lessee or other operator of the commercial motor  
63 vehicle has in effect insurance with limits of at least  
64 \$5,000,000 combined property damage and bodily injury liability.

65           3.a. A motor vehicle dealer or a motor vehicle dealer's  
66 leasing or rental affiliate that provides a temporary  
67 replacement vehicle at no charge or at a reasonable daily charge  
68 to a service customer whose vehicle is being held for repair,



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69 service, or adjustment by the motor vehicle dealer is immune  
70 from any cause of action and is not liable, vicariously or  
71 directly, under general law by reason of being the owner of the  
72 temporary replacement vehicle for harm to persons or property  
73 which arises out of the use or operation of the temporary  
74 replacement vehicle by any person named in the rental or use  
75 agreement during the period the temporary replacement vehicle  
76 has been entrusted to the motor vehicle dealer's service  
77 customer if there is no negligence or criminal wrongdoing on the  
78 part of the motor vehicle owner or its leasing or rental  
79 affiliate.

80 b. For purposes of this subparagraph, the term "service  
81 customer" does not include an employee, an agent, or a principal  
82 of a motor vehicle dealer or a motor vehicle dealer's leasing or  
83 rental affiliate.

84 c. The limits on liability in this subparagraph do not  
85 apply if there is a replacement vehicle mechanical failure or  
86 defect that is a proximate cause of harm to persons or property  
87 which arises out of the use or operation of the temporary  
88 replacement vehicle.

89 d. The limits on liability in this subparagraph do not  
90 apply unless there is a written rental or use agreement that  
91 names the drivers who will be given possession, control, or use  
92 of the temporary replacement vehicle; the rental or use  
93 agreement prohibits any person not listed in the agreement from  
94 using the temporary replacement vehicle; and the motor vehicle  
95 dealer or the motor vehicle dealer's leasing or rental affiliate  
96 obtains from the person receiving the temporary replacement  
97 vehicle a copy of the person's driver license and insurance



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98 information reflecting at least the minimum motor vehicle  
99 insurance coverage required in this state.

100 Section 3. This act shall take effect July 1, 2020.

101

102 ===== T I T L E A M E N D M E N T =====

103 And the title is amended as follows:

104 Delete everything before the enacting clause  
105 and insert:

106 A bill to be entitled  
107 An act relating to motor vehicle dealers; providing  
108 legislative findings; amending s. 324.021, F.S.;  
109 providing that certain motor vehicle dealers and their  
110 leasing or rental affiliates are immune from causes of  
111 action and are not liable for harm to persons or  
112 property under certain circumstances; defining the  
113 term "service customer"; providing exceptions to the  
114 limits on liability; providing an effective date.