

By Senator Brandes

24-00544A-20

20201738__

1 A bill to be entitled
2 An act relating to motor vehicle dealers; providing
3 legislative findings; amending s. 324.021, F.S.;
4 revising the definition of the term "rental company"
5 to include motor vehicle dealers without limitation
6 and their leasing and rental affiliates for the
7 purpose of minimum insurance coverage requirements;
8 providing that motor vehicle dealers and their
9 affiliates are immune to causes of action and not
10 vicariously liable for harm to persons or property
11 under certain circumstances; providing that motor
12 vehicle dealers and their affiliates are not adjudged
13 liable in civil proceedings or guilty in criminal
14 proceedings under certain circumstances; providing
15 exceptions; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. The Legislature finds that although the federal
20 Graves Amendment, 49 U.S.C. s. 30106, has eliminated vicarious
21 liability claims against motor vehicle rental and leasing
22 companies for damages or injuries caused by customers during a
23 rental or lease, motor vehicle dealers and their leasing and
24 rental affiliates in the state are still subjected to suits for
25 damages or injuries caused by customers during the customers'
26 operation of temporary replacement vehicles owned, but not being
27 operated, by the motor vehicle dealers and their leasing and
28 rental affiliates. Absent negligence or criminal conduct by a
29 motor vehicle dealer or its leasing or rental affiliates, the

24-00544A-20

20201738__

30 Legislature finds that subjecting motor vehicle dealers and
31 their leasing and rental affiliates to this vicarious liability
32 under the dangerous instrumentality doctrine is both unfair and
33 economically disadvantageous to motor vehicle dealers, their
34 leasing and rental affiliates, and state consumers in that it
35 causes dealers and their affiliates to suffer higher insurance
36 costs, which are then passed on to consumers. Vicarious
37 liability in such cases often serves to relieve the actual
38 tortfeasor from liability.

39 Section 2. Paragraph (c) of subsection (9) of section
40 324.021, Florida Statutes, is amended to read:

41 324.021 Definitions; minimum insurance required.—The
42 following words and phrases when used in this chapter shall, for
43 the purpose of this chapter, have the meanings respectively
44 ascribed to them in this section, except in those instances
45 where the context clearly indicates a different meaning:

46 (9) OWNER; OWNER/LESSOR.—

47 (c) *Application*.—

48 1. The limits on liability in subparagraphs (b)2. and 3. do
49 not apply to an owner of motor vehicles that are used for
50 commercial activity in the owner's ordinary course of business,
51 other than a rental company that rents or leases motor vehicles.
52 For purposes of this paragraph, the term "rental company"
53 includes:

54 a. only An entity that is engaged in the business of
55 renting or leasing motor vehicles to the general public and that
56 rents or leases a majority of its motor vehicles to persons with
57 no direct or indirect affiliation with the rental company.

58 b. ~~The term also includes~~ A motor vehicle dealer, or a

24-00544A-20

20201738__

59 motor vehicle dealer's leasing or rental affiliate, that
60 provides temporary replacement vehicles to its customers ~~for up~~
61 ~~to 10 days. The term "rental company" also includes:~~

62 c.a. A related rental or leasing company that is a
63 subsidiary of the same parent company as that of the renting or
64 leasing company that rented or leased the vehicle.

65 d.b. The holder of a motor vehicle title or an equity
66 interest in a motor vehicle title if the title or equity
67 interest is held pursuant to or to facilitate an asset-backed
68 securitization of a fleet of motor vehicles used solely in the
69 business of renting or leasing motor vehicles to the general
70 public and under the dominion and control of a rental company,
71 as described in this subparagraph, in the operation of such
72 rental company's business.

73 2. ~~Furthermore,~~ With respect to commercial motor vehicles
74 as defined in s. 627.732, the limits on liability in
75 subparagraphs (b)2. and 3. do not apply if, at the time of the
76 incident, the commercial motor vehicle is being used in the
77 transportation of materials found to be hazardous for the
78 purposes of the Hazardous Materials Transportation Authorization
79 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
80 required pursuant to such act to carry placards warning others
81 of the hazardous cargo, unless at the time of lease or rental
82 either:

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

87 b. The lessee or other operator of the commercial motor

24-00544A-20

20201738__

88 vehicle has in effect insurance with limits of at least
89 \$5,000,000 combined property damage and bodily injury liability.

90 3. A motor vehicle dealer, or a motor vehicle dealer's
91 leasing or rental affiliate, that provides a temporary
92 replacement vehicle at no charge or at a reasonable daily charge
93 to a service customer whose vehicle is being repaired, serviced,
94 or adjusted by the motor vehicle dealer is immune from any cause
95 of action and is not liable, vicariously or otherwise, under
96 general law by reason of being the owner of the temporary
97 replacement vehicle, for harm to persons or property that arises
98 out of the ownership, use, operation, control, or possession of
99 the temporary replacement vehicle during the period the
100 temporary replacement vehicle is in the use, operation, control,
101 or possession of the motor vehicle dealer's service customer, or
102 such customer's designee, if there is no negligence or criminal
103 wrongdoing on the part of the motor vehicle owner, or its
104 leasing or rental affiliate. For purposes of this section, and
105 notwithstanding any other provision of general law or existing
106 case law, a motor vehicle dealer, or a motor vehicle dealer's
107 leasing or rental affiliate, that gives possession, control, or
108 use of a temporary replacement vehicle to a motor vehicle
109 dealer's service customer may not be adjudged liable in a civil
110 proceeding, or guilty in a criminal proceeding, if the motor
111 vehicle dealer or the motor vehicle dealer's leasing or rental
112 affiliate obtains from the service customer or the customer's
113 designee a copy of the customer's driver license and information
114 on the required minimum motor vehicle insurance coverage in the
115 state. Any subsequent determination that the driver license or
116 insurance information provided to the motor vehicle dealer, or

24-00544A-20

20201738__

117 the motor vehicle dealer's leasing or rental affiliate, was in
118 any way false, fraudulent, misleading, nonexistent, canceled,
119 not in effect, or invalid does not alter or diminish the
120 protections provided by this section, unless the motor vehicle
121 dealer, or the motor vehicle dealer's leasing or rental
122 affiliate, had actual knowledge thereof at the time possession
123 of the temporary replacement vehicle was provided to the
124 customer.

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