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LEGISLATIVE ACTION

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| Senate | . | House |
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| | . | |
| Floor: 1/AD/3R | . | Floor: C |
| 03/13/2020 02:32 PM | . | 03/13/2020 09:11 PM |
| | . | |

Senators Lee and Brandes moved 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 economically disadvantageous in that it causes dealers and their



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12 affiliates to suffer higher insurance costs, which are then
13 passed on to consumers. Additionally, application of the
14 vicarious liability doctrine in such cases often serves to
15 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.

40 b. The holder of a motor vehicle title or an equity



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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,
69 service, or adjustment by the motor vehicle dealer is immune



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

79 b. For purposes of this section, and notwithstanding any
80 other provision of general law, a motor vehicle dealer, or a
81 motor vehicle dealer's leasing or rental affiliate, that gives
82 possession, control, or use of a temporary replacement vehicle
83 to a motor vehicle dealer's service customer may not be adjudged
84 liable in a civil proceeding absent negligence or criminal
85 wrongdoing on the part of the motor vehicle dealer, or the motor
86 vehicle dealer's leasing or rental affiliate, if the motor
87 vehicle dealer or the motor vehicle dealer's leasing or rental
88 affiliate executes a written rental or use agreement and obtains
89 from the person receiving the temporary replacement vehicle a
90 copy of the person's driver license and insurance information
91 reflecting at least the minimum motor vehicle insurance coverage
92 required in the state. Any subsequent determination that the
93 driver license or insurance information provided to the motor
94 vehicle dealer, or the motor vehicle dealer's leasing or rental
95 affiliate, was in any way false, fraudulent, misleading,
96 nonexistent, canceled, not in effect, or invalid does not alter
97 or diminish the protections provided by this section, unless the
98 motor vehicle dealer, or the motor vehicle dealer's leasing or



99 rental affiliate, had actual knowledge thereof at the time
100 possession of the temporary replacement vehicle was provided.

101 c. For purposes of this subparagraph, the term "service
102 customer" does not include an agent or a principal of a motor
103 vehicle dealer or a motor vehicle dealer's leasing or rental
104 affiliate, and does not include an employee of a motor vehicle
105 dealer or a motor vehicle dealer's leasing or rental affiliate
106 unless the employee was provided a temporary replacement
107 vehicle:

108 (I) While the employee's personal vehicle was being held
109 for repair, service, or adjustment by the motor vehicle dealer;

110 (II) In the same manner as other customers who are provided
111 a temporary replacement vehicle while the customer's vehicle is
112 being held for repair, service, or adjustment; and

113 (III) The employee was not acting within the course and
114 scope of their employment.

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

116
117 ===== T I T L E A M E N D M E N T =====

118 And the title is amended as follows:

119 Delete everything before the enacting clause
120 and insert:

121 A bill to be entitled
122 An act relating to motor vehicle dealers; providing
123 legislative findings; amending s. 324.021, F.S.;
124 revising the definition of the term "rental company"
125 to exclude certain motor vehicle dealers, for the
126 purpose of determining minimum insurance coverage
127 requirements; providing that specified motor vehicle



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128 dealers and their affiliates are immune to causes of
129 action and not vicariously or directly liable for harm
130 to persons or property under certain circumstances;
131 providing that specified motor vehicle dealers and
132 their affiliates are not adjudged liable in civil
133 proceedings under certain circumstances; providing
134 applicability; providing an effective date.