

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Transportation &
 2 Infrastructure Subcommittee
 3 Representative Rommel offered the following:

Amendment

Remove everything after the enacting clause and insert:

7 Section 1. The Legislature finds that absent negligence or
 8 criminal conduct by a motor vehicle dealer, or its leasing or
 9 rental affiliates, subjecting motor vehicle dealers and their
 10 leasing and rental affiliates to vicarious liability under the
 11 dangerous instrumentality doctrine when a temporary replacement
 12 vehicle is provided to a consumer violates the federal Graves
 13 Amendment and is both unfair and economically disadvantageous in
 14 that it causes dealers and their affiliates to suffer higher
 15 insurance costs, which are then passed on to consumers.
 16 Additionally, application of the vicarious liability doctrine in

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17 such cases often serves to relieve the actual tortfeasor from
18 liability.

19 Section 2. Paragraph (c) of subsection (9) of section
20 324.021, Florida Statutes, is amended to read:

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

26 (9) OWNER; OWNER/LESSOR.—

27 (c) Application.—

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

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40 a. A related rental or leasing company that is a
41 subsidiary of the same parent company as that of the renting or
42 leasing company that rented or leased the vehicle.

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

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

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

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65 b. The lessee or other operator of the commercial motor
66 vehicle has in effect insurance with limits of at least
67 \$5,000,000 combined property damage and bodily injury liability.

68 3. A motor vehicle dealer, or a motor vehicle dealer's
69 leasing or rental affiliate, that provides a temporary
70 replacement vehicle at no charge or at a reasonable daily charge
71 to a service customer whose vehicle is being held for repair,
72 service, or adjustment by the motor vehicle dealer is immune
73 from any cause of action and is not liable, vicariously or
74 directly, under general law by reason of being the owner of the
75 temporary replacement vehicle, for harm to persons or property
76 that arises out of the use, or operation, of the temporary
77 replacement vehicle by any person during the period the
78 temporary replacement vehicle has been entrusted to the motor
79 vehicle dealer's service customer if there is no negligence or
80 criminal wrongdoing on the part of the motor vehicle owner, or
81 its leasing or rental affiliate. For purposes of this section,
82 and notwithstanding any other provision of general law or
83 existing case law, a motor vehicle dealer, or a motor vehicle
84 dealer's leasing or rental affiliate, that gives possession,
85 control, or use of a temporary replacement vehicle to a motor
86 vehicle dealer's service customer may not be adjudged liable in
87 a civil proceeding, or guilty in a criminal proceeding, if the
88 motor vehicle dealer or the motor vehicle dealer's leasing or
89 rental affiliate obtains from the person receiving the temporary

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90 replacement vehicle a copy of the person's driver license and
91 insurance information reflecting at least the minimum motor
92 vehicle insurance coverage required in the state. Any subsequent
93 determination that the driver license or insurance information
94 provided to the motor vehicle dealer, or the motor vehicle
95 dealer's leasing or rental affiliate, was in any way false,
96 fraudulent, misleading, nonexistent, canceled, not in effect, or
97 invalid does not alter or diminish the protections provided by
98 this section, unless the motor vehicle dealer, or the motor
99 vehicle dealer's leasing or rental affiliate, had actual
100 knowledge thereof at the time possession of the temporary
101 replacement vehicle was provided.

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