

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 exclude certain motor vehicle dealers, for the
6 purpose of determining minimum insurance coverage
7 requirements; providing that specified motor vehicle
8 dealers and their affiliates are immune to causes of
9 action and not vicariously or directly liable for harm
10 to persons or property under certain circumstances;
11 providing that specified motor vehicle dealers and
12 their affiliates are not adjudged liable in civil
13 proceedings or guilty in criminal proceedings under
14 certain circumstances; providing exceptions; providing
15 an effective date.

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

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19 Section 1. The Legislature finds that, absent negligence
20 or criminal conduct by a motor vehicle dealer, or its leasing or
21 rental affiliates, subjecting motor vehicle dealers and their
22 leasing and rental affiliates to vicarious liability under the
23 dangerous instrumentality doctrine when a temporary replacement
24 vehicle is provided to a consumer violates the federal Graves
25 Amendment and is both unfair and economically disadvantageous in

26 that it causes dealers and their affiliates to suffer higher
27 insurance costs, which are then passed on to consumers.
28 Additionally, application of the vicarious liability doctrine in
29 such cases often serves to relieve the actual tortfeasor from
30 liability.

31 Section 2. Paragraph (c) of subsection (9) of section
32 324.021, Florida Statutes, is amended to read:

33 324.021 Definitions; minimum insurance required.—The
34 following words and phrases when used in this chapter shall, for
35 the purpose of this chapter, have the meanings respectively
36 ascribed to them in this section, except in those instances
37 where the context clearly indicates a different meaning:

38 (9) OWNER; OWNER/LESSOR.—

39 (c) Application.—

40 1. The limits on liability in subparagraphs (b)2. and 3.
41 do not apply to an owner of motor vehicles that are used for
42 commercial activity in the owner's ordinary course of business,
43 other than a rental company that rents or leases motor vehicles.
44 For purposes of this paragraph, the term "rental company"
45 includes only an entity that is engaged in the business of
46 renting or leasing motor vehicles to the general public and that
47 rents or leases a majority of its motor vehicles to persons with
48 no direct or indirect affiliation with the rental company. ~~The~~
49 ~~term also includes a motor vehicle dealer that provides~~
50 ~~temporary replacement vehicles to its customers for up to 10~~

51 ~~days.~~ The term "rental company" also includes:

52 a. A related rental or leasing company that is a
53 subsidiary of the same parent company as that of the renting or
54 leasing company that rented or leased the vehicle.

55 b. The holder of a motor vehicle title or an equity
56 interest in a motor vehicle title if the title or equity
57 interest is held pursuant to or to facilitate an asset-backed
58 securitization of a fleet of motor vehicles used solely in the
59 business of renting or leasing motor vehicles to the general
60 public and under the dominion and control of a rental company,
61 as described in this subparagraph, in the operation of such
62 rental company's business.

63 2. Furthermore, with respect to commercial motor vehicles
64 as defined in s. 627.732, the limits on liability in
65 subparagraphs (b)2. and 3. do not apply if, at the time of the
66 incident, the commercial motor vehicle is being used in the
67 transportation of materials found to be hazardous for the
68 purposes of the Hazardous Materials Transportation Authorization
69 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
70 required pursuant to such act to carry placards warning others
71 of the hazardous cargo, unless at the time of lease or rental
72 either:

73 a. The lessee indicates in writing that the vehicle will
74 not be used to transport materials found to be hazardous for the
75 purposes of the Hazardous Materials Transportation Authorization

76 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

77 b. The lessee or other operator of the commercial motor
78 vehicle has in effect insurance with limits of at least
79 \$5,000,000 combined property damage and bodily injury liability.

80 3. A motor vehicle dealer, or a motor vehicle dealer's
81 leasing or rental affiliate, that provides a temporary
82 replacement vehicle at no charge or at a reasonable daily charge
83 to a service customer whose vehicle is being held for repair,
84 service, or adjustment by the motor vehicle dealer is immune
85 from any cause of action and is not liable, vicariously or
86 directly, under general law by reason of being the owner of the
87 temporary replacement vehicle, for harm to persons or property
88 that arises out of the use, or operation, of the temporary
89 replacement vehicle by any person during the period the
90 temporary replacement vehicle has been entrusted to the motor
91 vehicle dealer's service customer if there is no negligence or
92 criminal wrongdoing on the part of the motor vehicle owner, or
93 its leasing or rental affiliate. For purposes of this section,
94 and notwithstanding any other provision of general law or
95 existing case law, a motor vehicle dealer, or a motor vehicle
96 dealer's leasing or rental affiliate, that gives possession,
97 control, or use of a temporary replacement vehicle to a motor
98 vehicle dealer's service customer may not be adjudged liable in
99 a civil proceeding, or guilty in a criminal proceeding, absent
100 negligence or criminal wrongdoing on the part of the motor

101 vehicle dealer, or the motor vehicle dealer's leasing or rental
102 affiliate, if the motor vehicle dealer or the motor vehicle
103 dealer's leasing or rental affiliate obtains from the person
104 receiving the temporary replacement vehicle a copy of the
105 person's driver license and insurance information reflecting at
106 least the minimum motor vehicle insurance coverage required in
107 the state. Any subsequent determination that the driver license
108 or insurance information provided to the motor vehicle dealer,
109 or the motor vehicle dealer's leasing or rental affiliate, was
110 in any way false, fraudulent, misleading, nonexistent, canceled,
111 not in effect, or invalid does not alter or diminish the
112 protections provided by this section, unless the motor vehicle
113 dealer, or the motor vehicle dealer's leasing or rental
114 affiliate, had actual knowledge thereof at the time possession
115 of the temporary replacement vehicle was provided. For purposes
116 of this subparagraph, the term "service customer" does not
117 include an employee, an agent, or a principal of a motor vehicle
118 dealer or a motor vehicle dealer's leasing or rental affiliate
119 unless such person has been provided a temporary replacement
120 vehicle while such person's vehicle is being held for repair,
121 service, or adjustment by the motor vehicle dealer.

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