

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 under certain circumstances; providing
 14 applicability; providing an effective date.

15

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

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18 Section 1. The Legislature finds that, absent negligence
 19 or criminal conduct by a motor vehicle dealer, or its leasing or
 20 rental affiliates, subjecting motor vehicle dealers and their
 21 leasing and rental affiliates to vicarious liability under the
 22 dangerous instrumentality doctrine when a temporary replacement
 23 vehicle is provided to a consumer is both unfair and
 24 economically disadvantageous in that it causes dealers and their
 25 affiliates to suffer higher insurance costs, which are then

26 | passed on to consumers. Additionally, application of the
27 | vicarious liability doctrine in such cases often serves to
28 | relieve the actual tortfeasor from liability.

29 | Section 2. Paragraph (c) of subsection (9) of section
30 | 324.021, Florida Statutes, is amended to read:

31 | 324.021 Definitions; minimum insurance required.—The
32 | following words and phrases when used in this chapter shall, for
33 | the purpose of this chapter, have the meanings respectively
34 | ascribed to them in this section, except in those instances
35 | where the context clearly indicates a different meaning:

36 | (9) OWNER; OWNER/LESSOR.—

37 | (c) *Application.*—

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

50 | a. A related rental or leasing company that is a

51 subsidiary of the same parent company as that of the renting or
52 leasing company that rented or leased the vehicle.

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

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

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

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

76 | vehicle has in effect insurance with limits of at least
77 | \$5,000,000 combined property damage and bodily injury liability.

78 | 3.a. A motor vehicle dealer, or a motor vehicle dealer's
79 | leasing or rental affiliate, that provides a temporary
80 | replacement vehicle at no charge or at a reasonable daily charge
81 | to a service customer whose vehicle is being held for repair,
82 | service, or adjustment by the motor vehicle dealer is immune
83 | from any cause of action and is not liable, vicariously or
84 | directly, under general law solely by reason of being the owner
85 | of the temporary replacement vehicle for harm to persons or
86 | property that arises out of the use, or operation, of the
87 | temporary replacement vehicle by any person during the period
88 | the temporary replacement vehicle has been entrusted to the
89 | motor vehicle dealer's service customer if there is no
90 | negligence or criminal wrongdoing on the part of the motor
91 | vehicle owner, or its leasing or rental affiliate.

92 | b. For purposes of this section, and notwithstanding any
93 | other provision of general law, a motor vehicle dealer, or a
94 | motor vehicle dealer's leasing or rental affiliate, that gives
95 | possession, control, or use of a temporary replacement vehicle
96 | to a motor vehicle dealer's service customer may not be adjudged
97 | liable in a civil proceeding absent negligence or criminal
98 | wrongdoing on the part of the motor vehicle dealer, or the motor
99 | vehicle dealer's leasing or rental affiliate, if the motor
100 | vehicle dealer or the motor vehicle dealer's leasing or rental

101 affiliate executes a written rental or use agreement and obtains
102 from the person receiving the temporary replacement vehicle a
103 copy of the person's driver license and insurance information
104 reflecting at least the minimum motor vehicle insurance coverage
105 required in the state. Any subsequent determination that the
106 driver license or insurance information provided to the motor
107 vehicle dealer, or the motor vehicle dealer's leasing or rental
108 affiliate, was in any way false, fraudulent, misleading,
109 nonexistent, canceled, not in effect, or invalid does not alter
110 or diminish the protections provided by this section, unless the
111 motor vehicle dealer, or the motor vehicle dealer's leasing or
112 rental affiliate, had actual knowledge thereof at the time
113 possession of the temporary replacement vehicle was provided.

114 c. For purposes of this subparagraph, the term "service
115 customer" does not include an agent or a principal of a motor
116 vehicle dealer or a motor vehicle dealer's leasing or rental
117 affiliate, and does not include an employee of a motor vehicle
118 dealer or a motor vehicle dealer's leasing or rental affiliate
119 unless the employee was provided a temporary replacement
120 vehicle:

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

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

126 | (III) The employee was not acting within the course and
127 | scope of their employment.

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