

By Senator Wright

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1                   A bill to be entitled  
2       An act relating to immunity of motor vehicle dealer  
3       leasing and rental affiliates; amending s. 324.021,  
4       F.S.; defining the term "control"; defining the term  
5       "motor vehicle dealer's leasing or rental affiliate"  
6       to specify the entities that are immune from causes of  
7       action and that are not liable for harm to persons and  
8       property under certain circumstances; providing an  
9       effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

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13       Section 1. Paragraph (c) of subsection (9) of section  
14       324.021, Florida Statutes, is amended to read:

15       324.021 Definitions; minimum insurance required.—The  
16       following words and phrases when used in this chapter shall, for  
17       the purpose of this chapter, have the meanings respectively  
18       ascribed to them in this section, except in those instances  
19       where the context clearly indicates a different meaning:

20       (9) OWNER; OWNER/LESSOR.—

21       (c) *Application*.—

22       1. The limits on liability in subparagraphs (b)2. and 3. do  
23       not apply to an owner of motor vehicles that are used for  
24       commercial activity in the owner's ordinary course of business,  
25       other than a rental company that rents or leases motor vehicles.  
26       For purposes of this paragraph, the term "rental company"  
27       includes only an entity that is engaged in the business of  
28       renting or leasing motor vehicles to the general public and that  
29       rents or leases a majority of its motor vehicles to persons with

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30 no direct or indirect affiliation with the rental company. The  
31 term "rental company" also includes:

32 a. A related rental or leasing company that is a subsidiary  
33 of the same parent company as that of the renting or leasing  
34 company that rented or leased the vehicle.

35 b. The holder of a motor vehicle title or an equity  
36 interest in a motor vehicle title if the title or equity  
37 interest is held pursuant to or to facilitate an asset-backed  
38 securitization of a fleet of motor vehicles used solely in the  
39 business of renting or leasing motor vehicles to the general  
40 public and under the dominion and control of a rental company,  
41 as described in this subparagraph, in the operation of such  
42 rental company's business.

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

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

57 b. The lessee or other operator of the commercial motor  
58 vehicle has in effect insurance with limits of at least

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59 \$5,000,000 combined property damage and bodily injury liability.

60 3.a. A motor vehicle dealer, or a motor vehicle dealer's  
61 leasing or rental affiliate, that provides a temporary  
62 replacement vehicle at no charge or at a reasonable daily charge  
63 to a service customer whose vehicle is being held for repair,  
64 service, or adjustment by the motor vehicle dealer is immune  
65 from any cause of action and is not liable, vicariously or  
66 directly, under general law solely by reason of being the owner  
67 of the temporary replacement vehicle for harm to persons or  
68 property that arises out of the use, or operation, of the  
69 temporary replacement vehicle by any person during the period  
70 the temporary replacement vehicle has been entrusted to the  
71 motor vehicle dealer's service customer if there is no  
72 negligence or criminal wrongdoing on the part of the motor  
73 vehicle owner, or its leasing or rental affiliate.

74 b. For purposes of this section, and notwithstanding any  
75 other provision of general law, a motor vehicle dealer, or a  
76 motor vehicle dealer's leasing or rental affiliate, that gives  
77 possession, control, or use of a temporary replacement vehicle  
78 to a motor vehicle dealer's service customer may not be adjudged  
79 liable in a civil proceeding absent negligence or criminal  
80 wrongdoing on the part of the motor vehicle dealer, or the motor  
81 vehicle dealer's leasing or rental affiliate, if the motor  
82 vehicle dealer or the motor vehicle dealer's leasing or rental  
83 affiliate executes a written rental or use agreement and obtains  
84 from the person receiving the temporary replacement vehicle a  
85 copy of the person's driver license and insurance information  
86 reflecting at least the minimum motor vehicle insurance coverage  
87 required in the state. Any subsequent determination that the

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88 driver license or insurance information provided to the motor  
89 vehicle dealer, or the motor vehicle dealer's leasing or rental  
90 affiliate, was in any way false, fraudulent, misleading,  
91 nonexistent, canceled, not in effect, or invalid does not alter  
92 or diminish the protections provided by this section, unless the  
93 motor vehicle dealer, or the motor vehicle dealer's leasing or  
94 rental affiliate, had actual knowledge thereof at the time  
95 possession of the temporary replacement vehicle was provided.

96 c. For purposes of this subparagraph, the term:

97 (I) "Control" means the power to direct the management and  
98 policies of a person whether through ownership of voting  
99 securities or otherwise.

100 (II) "Motor vehicle dealer's leasing or rental affiliate"  
101 means a person that directly or indirectly controls, is  
102 controlled by, or is under common control with the motor vehicle  
103 dealer.

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

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

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

116 (III) The employee was not acting within the course and

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117 scope of his or her employment.

118 Section 2. This act shall take effect July 1, 2023.