

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Maggard offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 12 and 13, insert:

5 Section 1. Paragraph (c) of subsection (9) of section
6 324.021, Florida Statutes, is amended to read:

7 324.021 Definitions; minimum insurance required.—The
8 following words and phrases when used in this chapter shall, for
9 the purpose of this chapter, have the meanings respectively
10 ascribed to them in this section, except in those instances
11 where the context clearly indicates a different meaning:

12 (9) OWNER; OWNER/LESSOR.—

13 (c) Application.—

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14 1. The limits on liability in subparagraphs (b)2. and 3.
15 do not apply to an owner of motor vehicles that are used for
16 commercial activity in the owner's ordinary course of business,
17 other than a rental company that rents or leases motor vehicles.
18 For purposes of this paragraph, the term "rental company"
19 includes only an entity that is engaged in the business of
20 renting or leasing motor vehicles to the general public and that
21 rents or leases a majority of its motor vehicles to persons with
22 no direct or indirect affiliation with the rental company. The
23 term "rental company" also includes:

24 a. A related rental or leasing company that is a
25 subsidiary of the same parent company as that of the renting or
26 leasing company that rented or leased the vehicle.

27 b. The holder of a motor vehicle title or an equity
28 interest in a motor vehicle title if the title or equity
29 interest is held pursuant to or to facilitate an asset-backed
30 securitization of a fleet of motor vehicles used solely in the
31 business of renting or leasing motor vehicles to the general
32 public and under the dominion and control of a rental company,
33 as described in this subparagraph, in the operation of such
34 rental company's business.

35 2. Furthermore, with respect to commercial motor vehicles
36 as defined in s. 627.732, the limits on liability in
37 subparagraphs (b)2. and 3. do not apply if, at the time of the
38 incident, the commercial motor vehicle is being used in the

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39 transportation of materials found to be hazardous for the
40 purposes of the Hazardous Materials Transportation Authorization
41 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
42 required pursuant to such act to carry placards warning others
43 of the hazardous cargo, unless at the time of lease or rental
44 either:

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

49 b. The lessee or other operator of the commercial motor
50 vehicle has in effect insurance with limits of at least
51 \$5,000,000 combined property damage and bodily injury liability.

52 3.a. A motor vehicle dealer, or a motor vehicle dealer's
53 leasing or rental affiliate, that provides a temporary
54 replacement vehicle at no charge or at a reasonable daily charge
55 to a service customer whose vehicle is being held for repair,
56 service, or adjustment by the motor vehicle dealer is immune
57 from any cause of action and is not liable, vicariously or
58 directly, under general law solely by reason of being the owner
59 of the temporary replacement vehicle for harm to persons or
60 property that arises out of the use, or operation, of the
61 temporary replacement vehicle by any person during the period
62 the temporary replacement vehicle has been entrusted to the
63 motor vehicle dealer's service customer if there is no

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64 negligence or criminal wrongdoing on the part of the motor
65 vehicle owner, or its leasing or rental affiliate.

66 b. For purposes of this section, and notwithstanding any
67 other provision of general law, a motor vehicle dealer, or a
68 motor vehicle dealer's leasing or rental affiliate, that gives
69 possession, control, or use of a temporary replacement vehicle
70 to a motor vehicle dealer's service customer may not be adjudged
71 liable in a civil proceeding absent negligence or criminal
72 wrongdoing on the part of the motor vehicle dealer, or the motor
73 vehicle dealer's leasing or rental affiliate, if the motor
74 vehicle dealer or the motor vehicle dealer's leasing or rental
75 affiliate executes a written rental or use agreement and obtains
76 from the person receiving the temporary replacement vehicle a
77 copy of the person's driver license and insurance information
78 reflecting at least the minimum motor vehicle insurance coverage
79 required in the state. Any subsequent determination that the
80 driver license or insurance information provided to the motor
81 vehicle dealer, or the motor vehicle dealer's leasing or rental
82 affiliate, was in any way false, fraudulent, misleading,
83 nonexistent, canceled, not in effect, or invalid does not alter
84 or diminish the protections provided by this section, unless the
85 motor vehicle dealer, or the motor vehicle dealer's leasing or
86 rental affiliate, had actual knowledge thereof at the time
87 possession of the temporary replacement vehicle was provided.

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

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

92 (II) "Motor vehicle dealer's leasing or rental affiliate"
93 means a person who directly or indirectly controls, is
94 controlled by, or is under common control with the motor vehicle
95 dealer.

96 ~~d.e.~~ For purposes of this subparagraph, the term "service
97 customer" does not include an agent or a principal of a motor
98 vehicle dealer or a motor vehicle dealer's leasing or rental
99 affiliate, and does not include an employee of a motor vehicle
100 dealer or a motor vehicle dealer's leasing or rental affiliate
101 unless the employee was provided a temporary replacement
102 vehicle:

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

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

108 (III) The employee was not acting within the course and
109 scope of his or her employment.

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112 **T I T L E A M E N D M E N T**

113 Remove lines 2-3 and insert:

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114 An act relating to commercial motor vehicle liability;
115 amending s. 324.021, F.S.; defining the term
116 "control"; defining the term "motor vehicle dealer's
117 leasing or rental affiliate" to specify the entities
118 who are immune from causes of action and not liable
119 for harm to persons and property under certain
120 circumstances; creating s. 768.0429, F.S.; providing

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