

By Senator Thurston

33-00252-18

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1 A bill to be entitled
2 An act for the relief of the Estate of Dr. Sherrill
3 Lynn Aversa; providing an appropriation to compensate
4 the Estate of Dr. Sherrill Lynn Aversa for Dr.
5 Aversa's death as a result of the negligence of the
6 Department of Transportation; requiring the Executive
7 Office of the Governor to establish spending authority
8 from unappropriated trust fund balances of the
9 department for compensation to the Estate of Dr.
10 Sherrill Lynn Aversa; providing a limitation on the
11 payment of attorney fees; providing an effective date.
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13 WHEREAS, on June 21, 1999, an employee of the Department of
14 Transportation was driving a department vehicle north on
15 Interstate 75 in Hillsborough County, and

16 WHEREAS, on that same day, Dr. Sherrill Lynn Aversa, having
17 completed an interview at the University of South Florida
18 Medical School, was traveling south on Interstate 75, and

19 WHEREAS, according to departmental policy, employees of the
20 department are required to ensure that all items used by the
21 department and stored on a department vehicle are appropriately
22 secured, and

23 WHEREAS, one such item used by the department was a 12-foot
24 extension ladder stored on the roof of the truck driven by the
25 department employee and the employee failed to ensure that the
26 ladder was secured to the vehicle before leaving the
27 department's maintenance yard, and

28 WHEREAS, as the employee traveled north on Interstate 75 in
29 the department vehicle, the extension ladder flew off the roof

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30 into the northbound traffic traveling behind the department
31 vehicle, and

32 WHEREAS, the driver of the vehicle traveling behind the
33 department vehicle swerved to avoid hitting the ladder and, as a
34 result of the swerving movement, lost control of her vehicle,
35 veered to the left, crossed the Interstate 75 median, and struck
36 Dr. Aversa's southbound vehicle, killing Dr. Aversa instantly,
37 and

38 WHEREAS, as a result of these events, the Estate of Dr.
39 Sherrill Lynn Aversa brought suit against the department for its
40 negligence in causing the death of Dr. Aversa, and

41 WHEREAS, after 3 years of litigation, the department
42 admitted liability for the accident and agreed to settle the
43 case, and

44 WHEREAS, the parties agreed to a consent judgment in the
45 amount of \$800,000 solely against the department, with no
46 finding of comparative negligence against any other party, and

47 WHEREAS, the department has paid \$150,000 to the Estate of
48 Dr. Sherrill Lynn Aversa consistent with the statutory limits of
49 liability set forth in s. 768.28, Florida Statutes, NOW,
50 THEREFORE,

51

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

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54 Section 1. The facts stated in the preamble to this act are
55 found and declared to be true.

56 Section 2. The Executive Office of the Governor is directed
57 to establish spending authority from unappropriated trust fund
58 balances of the Department of Transportation in the amount of

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59 \$650,000 to a new category titled "Relief: Estate of Dr.
60 Sherrill Lynn Aversa" as compensation to the Estate of Dr.
61 Sherrill Lynn Aversa for the death of Dr. Sherrill Lynn Aversa,
62 which amount includes attorney fees and costs.

63 Section 3. The Chief Financial Officer is directed to draw
64 a warrant, pursuant to the stipulated settlement agreement
65 executed by the Department of Transportation and the personal
66 representative of the Estate of Dr. Sherrill Lynn Aversa, in the
67 amount of \$650,000 upon funds of the Department of
68 Transportation not otherwise encumbered, and the Chief Financial
69 Officer is directed to pay the same sum out of such funds in the
70 State Treasury.

71 Section 4. The amount paid by the Department of
72 Transportation pursuant to s. 768.28, Florida Statutes, and the
73 amount awarded under this act are intended to provide the sole
74 compensation for this excess judgment claim and for all other
75 present and future claims arising out of the factual situation
76 described in this act which resulted in the death of Dr.
77 Sherrill Lynn Aversa. The total amount paid for attorney fees
78 relating to this claim may not exceed 25 percent of the amount
79 awarded under this act.

80 Section 5. This act shall take effect upon becoming a law.