

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.

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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.
 23 do 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
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
33 subsidiary of the same parent company as that of the renting or
34 leasing 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
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
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"

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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
114 provided a temporary replacement vehicle while the customer's
115 vehicle is being held for repair, service, or adjustment; and

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

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