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LEGISLATIVE ACTION

Senate

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House

Senator Wright moved the following:

Senate Amendment (with title amendment)

Between lines 1552 and 1553
insert:

Section 26. Paragraph (c) of subsection (9) of section
324.021, Florida Statutes, is amended to read:

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



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(9) OWNER; OWNER/LESSOR.—

(c) *Application*.—

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

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

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

2. Furthermore, with respect to commercial motor vehicles as defined in s. 627.732, the limits on liability in subparagraphs (b)2. and 3. do not apply if, at the time of the incident, the commercial motor vehicle is being used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Authorization



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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
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



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to a motor vehicle dealer's service customer may not be adjudged liable in a civil proceeding absent negligence or criminal wrongdoing on the part of the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, if the motor vehicle dealer or the motor vehicle dealer's leasing or rental affiliate executes a written rental or use agreement and obtains from the person receiving the temporary replacement vehicle a copy of the person's driver license and insurance information reflecting at least the minimum motor vehicle insurance coverage required in the state. Any subsequent determination that the driver license or insurance information provided to the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, was in any way false, fraudulent, misleading, nonexistent, canceled, not in effect, or invalid does not alter or diminish the protections provided by this section, unless the motor vehicle dealer, or the motor vehicle dealer's leasing or rental affiliate, had actual knowledge thereof at the time possession of the temporary replacement vehicle was provided.

c. For purposes of this subparagraph, the term:

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

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

d.e. For purposes of this subparagraph, the term "service customer" does not include an agent or a principal of a motor vehicle dealer or a motor vehicle dealer's leasing or rental



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affiliate, and does not include an employee of a motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate unless the employee was provided a temporary replacement vehicle:

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

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

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

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Between lines 144 and 145
insert:

amending s. 324.021, F.S.; defining the term
"control"; defining the term "motor vehicle dealer's
leasing or rental affiliate" to specify which entities
are immune from causes of action and are not liable
for harm to persons and property under certain
circumstances;