



DAILY BRIEF

For the 2019 Legislative Session

From April 30, 2019

LEGAL & JUDICIAL

SB 862 – Relating to Lessor Liability Under Special Mobile Equipment Leases

On Tuesday, April 30, **SB 862** by Senator Kelli Stargel (R-Lakeland) was read on the House floor and passed with a vote of 83 yeas and 32 nays.

Florida's Dangerous Instrumentality Doctrine (DID) was created in the early 20th century, a time where automobiles began traveling on public roads. The doctrine has been expanded far beyond the borders of its original intent and now applies to off-highway vehicles such as golf carts, tractors, and construction equipment. The doctrine holds owners or lessors liable for the harm caused by an operator, even when the lessor is not in control of the equipment or vehicle at the time of the incident. Florida is the only state in the country where DID is applied in this manner.

This bill provides that lessors of special mobile equipment are not liable for the acts of the lessee or lessee's agent or employee if the lease agreement requires documented proof of insurance coverage containing limits of at least \$250,000 per person and up to \$500,000 per incident for bodily injury liability and up to \$100,000 for property damage liability, or at least \$750,000 for combined property damage liability and bodily injury liability. Special mobile equipment are vehicles not designed or used primarily to transport persons or property and that are only incidentally operated or moved over a highway. Examples include ditchdigging apparatus, well-boring apparatus, road construction and maintenance machinery, draglines, self-propelled cranes and earthmoving equipment.

SB 862 was ordered enrolled and will now go to the Governor.

AIF supports the protection of owners and lessors from vicarious liability which is harmful to Florida's business community.

HB 431 – Relating to Liens Against Motor Vehicles and Vessels

On Tuesday, April 30, **HB 431** by Representative Jason Fischer (R-Jacksonville) was read on the Senate floor and passed with a vote of 38 yeas and 0 nays.

Currently, towing companies and auto repair shops, among others, may impose a lien on automobiles for towing and storage charges, as well as unpaid repair costs. The current statute requires the lienor to give the auto owner and all parties that have a financial interest in the auto notice of the lien and the public sale of the auto to cover paying off the lien.

Unfortunately, some “bad actors” in Florida have been abusing our current system by:

- Manipulating the time period for sending the notice of lien and notice of sale to eliminate the owner or finance company’s ability to pay the charges and recover the auto;
- Imposing very high administrative fees for perfecting the lien and enforcing the lien;
- Adding unreasonable or fraudulent charges to the towing or repair bill to justify the sale of the auto and keeping all proceeds of the sale.

HB 431 will now go to the Governor.

AIF supports legislation that prevents the increase in insurance rates. When ‘bad actor’ companies take advantage of the current lien laws, insurance rates become improperly inflated and has a harmful effect on many sectors of the business community.