

## Press Release

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### **NEWLY ENACTED FEDERAL TRANSPORTATION ACT** **IMPACTS RENTED/ LEASED VEHICLES**

Recently, President Bush signed into legislation the "Safe, Accountable, Flexible, Efficient Transportation Equity Act" (SAFETEAU-LU), which will have a dramatic affect on State and Federal litigation involving leased or rented motor vehicles, including commercial carrier equipment. Specifically, the landscape has changed for laws related to matters involving alleged injuries and property damage suffered as a result of negligent operation of those class of vehicles.

This new statute was enacted on August 10, 2005, which needs to be considered for any actions involving injuries and property damage, filed on or after that date, arising out of the use of a rented or leased vehicle.

Most importantly, the Act says the owner of a motor vehicle is not liable for personal or property damages during the rental or lease of the vehicle. Specifically, the statute is entitled "Rented or Leased Motor Vehicle Safety and Responsibility," and states: "An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner) for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if (1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and (2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner)."

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The statute defines the term “owner” to mean any person (which includes individuals, corporations, or any other legal entity) who is: (1) a record or beneficial owner, holder of title, lessor, or lessee of a motor vehicle; (2) entitled to the use and possession of a motor vehicle subject to a security interest in another person; (3) a lessor, lessee, or a bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession thereof, under a lease, bailment, or otherwise. An “affiliate” is a person, other than the owner, that directly or indirectly controls, is controlled by, or is under common control with the owner. The Act is codified at 49 U.S.C.A. §30106.

In general, this Act’s purpose is to authorize “funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.” One of those “other purposes” is that it authorizes Congress to prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce. The Act, which in essence creates limited immunity for vicarious owner liability based claims, is presumably in furtherance of that “other purpose.”

The new act also preempts State law unless the State standards are identical to the Federal legislation. The potential preemptive effect of the new legislation on existing State law was the subject of an article published in the *New York Times* on August 4, 2005 authored by Michael Cooper. That article indicates that the new Federal provision would nullify a New York State law that prompted many car companies and banks to stop leasing cars in New York.

Apparently, the New York law made it possible to sue the owner of a vehicle involved in an accident, regardless of who was driving the vehicle. The law was originally intended to hold wealthy vehicle owners responsible for the damage caused when their livery drivers were involved in crashes. This law apparently exposed several automobile leasing

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companies to high jury verdict exposure, which is now minimized, if not fully negated, by the new Act.

However, the new legislation does not completely exclude the application of State law to claims arising out of injuries that occur from the use of a leased or rented vehicle. For example, the new Federal legislation does not define the phrase “engaged in the trade or business of renting or leasing motor vehicles,” and, therefore, the application of that phrase will more than likely require the application of existing State law.

The new statute further does not relieve the owner of a leased or rented motor vehicle from complying with the financial responsibility acts of the States in which the motor vehicles are registered. In effect, it would appear that first party personal injury and property protection insurance benefits, and mandatory minimum liability limit coverages, will still be required to be purchased by owners/lessors of motor vehicles in some states.

The new federal legislation also essentially negates certain portions of Michigan’s Owner’s Liability Statute, because the length of the vehicle or equipment lease agreement is no longer relevant. The Federal Act now specifies who, and under what circumstances, can be held vicariously liable for the negligent operation of leased and rented vehicles.

The new legislation will also provide profound protections to the common carrier industry. It is common practice for the titled owner’s of equipment in that industry, whether that equipment be a semi-tractor, trailer, chassis or cartage container, to lease the equipment to other common carriers for 30 days or less. Prior to enactment of §30106, the titled owner could be held vicariously liable in Michigan for injuries to third parties caused by the operation of the leased equipment, in that situation. The new legislation now precludes that lessor’s liability.

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Finally, the new legislation can potentially have an effect on both venue and jurisdiction. For example, under Michigan venue statutes, for claims involving negligent leasing, proper venue would lay in the County where the negligent leasing occurred, rather than the location of the actual motor vehicle accident. In addition, the application of this new legislation may be sufficient to invoke Federal question jurisdiction under 28 USCA §1337(a), which mandates that Federal District Court's have original jurisdiction over any civil action arising under any act of Congress regulating commerce, which the new legislation undoubtedly does.

Garan Luow Miller, P.C. while a full-service law firm founded in 1948 with offices throughout Michigan has a specialty Transportation Law department. Other areas of concentration include general civil litigation defense, municipal law, intellectual property, corporate law and real estate transactions. Visit [www.garanluow.com](http://www.garanluow.com).

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