

SECOND REGULAR SESSION

SENATE BILL NO. 1104

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS KENNEDY AND SMITH.

Read 1st time February 7, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4683S.011

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to granting immunity to law enforcement agencies for damages caused by vehicular pursuits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto one new
2 section, to be known as section 537.167, to read as follows:

**537.167. 1. Notwithstanding the provisions of subdivision (1) of
2 subsection 1 of section 537.600 to the contrary, a political subdivision
3 or law enforcement agency employing peace officers that adopts and
4 promulgates a written policy on, and provides regular and periodic
5 training on an annual basis for, vehicular pursuits complying with the
6 provisions of this section is immune from liability for civil damages for
7 personal injury to or death of any person or damage to property
8 resulting from the collision of a vehicle being operated by an actual or
9 suspected violator of the law who is being, has been, or believes he or
10 she is being or has been, pursued in a motor vehicle by a peace officer
11 employed by the political subdivision or law enforcement agency.**

12 **2. The immunity provided by this section is in addition to any
13 other immunity provided by law. The adoption of a vehicle pursuit
14 policy by a political subdivision or law enforcement agency pursuant
15 to this section is discretionary. The failure of any law enforcement
16 agency or political subdivision to adopt a policy under this section
17 shall not be introduced in any action or proceeding against the law
18 enforcement agency, political subdivision, or law enforcement officer,
19 that seeks recovery for injury, death, or damage arising out of the
20 operation of a vehicle during the pursuit of a person.**

21 3. All peace officers of the political subdivision or law
22 enforcement agency shall certify in writing that they have received,
23 read, and understand the policy. The failure of an individual peace
24 officer to sign a certification shall not be used to impose liability on an
25 individual peace officer or the peace officer's employing law
26 enforcement agency.

27 4. A policy for the safe conduct of motor vehicle pursuits by
28 peace officers shall meet all of the following minimum standards:

29 (1) Determine under what circumstances to initiate a
30 pursuit. The policy shall define a "pursuit", articulate the reasons for
31 which a pursuit is authorized, and identify the issues that should be
32 considered in reaching the decision to pursue. It should also address
33 the importance of protecting the public and balancing the known or
34 reasonably suspected offense, and the apparent need for immediate
35 capture against the risks to peace officers, innocent motorists, and
36 others to protect the public;

37 (2) Determine the total number of law enforcement vehicles
38 authorized to participate in a pursuit. Establish the authorized number
39 of law enforcement units and supervisors who may be involved in a
40 pursuit, describe the responsibility of each authorized unit and the role
41 of each peace officer and supervisor, and specify if and when additional
42 units are authorized;

43 (3) Determine the communication procedures to be followed
44 during a pursuit. Specify pursuit coordination and control procedures
45 and determine assignment of communications responsibility by unit
46 and organizational entity;

47 (4) Determine the role of the supervisor in managing and
48 controlling a pursuit. Supervisory responsibility shall include
49 management and control of a pursuit, assessment of risk factors
50 associated with a pursuit, and when to terminate a pursuit;

51 (5) Determine driving tactics and the circumstances under which
52 the tactics may be appropriate;

53 (6) Determine authorized pursuit intervention tactics. Pursuit
54 intervention tactics include, but are not limited to, blocking, ramming,
55 boxing, and roadblock procedures. The policy shall specify under what
56 circumstances and conditions each approved tactic is authorized to be
57 used;

58 (7) Determine the factors to be considered by a peace officer and
59 supervisor in determining speeds throughout a pursuit. Evaluation
60 shall take into consideration public safety, peace officer safety, and
61 safety of the occupants in a fleeing vehicle;

62 (8) Determine the role of air support, where available. Air
63 support shall include coordinating the activities of resources on the
64 ground, reporting on the progress of a pursuit, and providing peace
65 officers and supervisors with information to evaluate whether or not
66 to continue the pursuit;

67 (9) Determine when to terminate or discontinue a
68 pursuit. Factors to be considered include, but are not limited to, all of
69 the following:

70 (a) Ongoing evaluation of risk to the public or pursuing peace
71 officer;

72 (b) The protection of the public, given the known or reasonably
73 suspected offense and apparent need for immediate capture against the
74 risks to the public and peace officers;

75 (c) Vehicular or pedestrian traffic safety and volume;

76 (d) Weather conditions;

77 (e) Traffic conditions;

78 (f) Speeds;

79 (g) Availability of air support;

80 (h) Procedures when an offender is identified and may be
81 apprehended at a later time or when the location of the pursuit vehicle
82 is no longer known;

83 (10) Determine procedures for apprehending an offender
84 following a pursuit. Safety of the public and peace officers during the
85 law enforcement effort to capture an offender shall be an important
86 factor;

87 (11) Determine effective coordination, management, and control
88 of interjurisdictional pursuits. The policy shall include, but shall not
89 be limited to, all of the following:

90 (a) Supervisory control and management of a pursuit that enters
91 another jurisdiction;

92 (b) Communications and notifications among the agencies
93 involved;

94 (c) Involvement in another jurisdiction's pursuit;

95 **(d) Roles and responsibilities of units and coordination,**
96 **management, and control at the termination of an interjurisdictional**
97 **pursuit.**

98 **5. The written policy requirements set forth in subsection 4 of**
99 **this section represent minimum policy standards and do not limit a**
100 **political subdivision or law enforcement agency from adopting**
101 **additional policy requirements.**

102 **6. A determination of whether a political subdivision or law**
103 **enforcement agency has complied with the provisions of this section is**
104 **a question of law that shall be determined by a court of competent**
105 **jurisdiction.**

106 **7. A vehicle pursuit policy adopted under this section shall be**
107 **confidential and shall not be subject to examination under chapter 610,**
108 **RSMo.**

109 **8. The immunity afforded by the provisions of this section shall**
110 **only apply to causes of action arising on or after August 28, 2008.**

Bill ✓

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