

SECOND REGULAR SESSION

SENATE BILL NO. 608

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4589S.02I

AN ACT

To amend chapter 537, RSMo, by adding thereto two new sections relating to civil liability due to criminal conduct.

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

Section A. Chapter 537, RSMo, is amended by adding thereto two new sections, to be known as sections 537.785 and 537.787, to read as follows:

537.785. 1. Sections 537.785 and 537.787 may be referred to and cited as the "Business Premises Safety Act".

2. As used in sections 537.785 and 537.787, the following terms mean:

(1) "Business", any commercial or agricultural enterprise including, but not limited to, sales, services, manufacturing, food service, entertainment, property management or leasing company, or any other entity, whether for profit or not for profit, which owns, operates, or leases property that is open to the public, whether for charge or free of charge, and includes all employees and agents thereof. The term "business" shall not include commercial residential operations;

(2) "Criminal act", those offenses specified under chapters 565 to 571 that have resulted in injury;

(3) "Harmful act", an intentional or reckless offensive bodily contact with another person that has resulted in injury;

(4) "Injury", any personal injury including, but not limited to, physical injury, sickness, disease, or death and all damages resulting therefrom including, but not limited to, medical expenses, wage loss, and loss of service;

(5) "Person", any individual who is lawfully on the premises,

22 without regard to the person's status as an invitee or licensee. The term
23 "person" shall not include employees or agents of the business;

24 (6) "Premises", real property in the possession of and under the
25 control of a business;

26 (7) "Reasonable security measures", those precautions based upon
27 industry standards applicable at the time of the injury that a business
28 in such industry would implement in a particular area of the premises
29 to guard against criminal acts or harmful acts based on the condition
30 of the premises and the cost of implementing such precautions.

537.787. 1. There is no duty upon a business to guard against
2 criminal acts or harmful acts on the premises unless the business
3 knows or has reason to know that such acts are being committed or are
4 about to be committed by an identifiable person in a particular area of
5 the premises and that such acts pose an imminent probability of injury
6 to another identifiable person and sufficient time exists to prevent such
7 injury. In the absence of such a duty, no civil action for damages shall
8 lie against a business for injuries sustained by a person in connection
9 with criminal acts or harmful acts committed by another person on the
10 premises.

11 2. If a duty is found to exist under subsection 1 of this section,
12 the following shall apply in any civil action for damages against a
13 business for injuries sustained by a person in connection with criminal
14 acts or harmful acts committed by another person on the premises:

15 (1) A business that has implemented reasonable security
16 measures shall not be liable for damages;

17 (2) A business shall not be liable for damages if the claimant was
18 on the premises and was:

19 (a) A trespasser;

20 (b) Under the influence of alcohol with a blood-alcohol content
21 of eight-hundredths of one percent or more;

22 (c) Illegally under the influence of any substance controlled
23 under chapter 195;

24 (d) Attempting to commit a felony; or

25 (e) Engaged in the commission of a felony;

26 (3) The claimant shall have the burden to prove by clear and
27 convincing evidence that reasonable security measures would have
28 prevented the criminal act or harmful act and the injury alleged;

29 **(4) Evidence of subsequent action taken by the business to**
30 **provide protection to persons on the premises shall not be admissible**
31 **in evidence to show negligence or to establish the feasibility of any**
32 **security measures.**

33 **3. Nothing in this section shall be construed to create or increase**
34 **the liability of a business and does not affect any immunities from or**
35 **defenses to liability established under state law or available under**
36 **common law to which a business may be entitled.**

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