

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 608

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

Offered February 21, 2018.

Senate Substitute adopted, February 21, 2018.

Taken up for Perfection February 21, 2018. Bill declared Perfected and Ordered Printed.

ADRIANE D. CROUSE, Secretary.

4589S.04P

## AN ACT

To repeal section 537.349, RSMo, and to enact in lieu thereof three 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Section A. Section 537.349, RSMo, is repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 537.349, 537.785, and 537.787,  
3 to read as follows:

537.349. A person or legal entity owning or controlling an interest in real  
2 property, or an agent of such person or entity, shall not incur any liability for the  
3 death of or injury to a trespasser upon the property resulting from or arising by  
4 reason of the trespasser's commission of the offense of trespass if the normal  
5 faculties of such trespasser are substantially impaired by alcohol or the illegal  
6 influence of a controlled substance as defined in section 195.010. The person or  
7 entity owning or controlling an interest in such real property shall not be immune  
8 from liability if [negligence or] willful and wanton misconduct on the part of such  
9 person or entity or agent thereof is the proximate cause of the death of or injury  
10 to the trespasser.

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

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

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

13 (2) "Criminal act", those offenses specified under chapters 565 to  
14 571;

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

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

21 (5) "Person", any individual who is lawfully on the premises,  
22 without regard to the person's status as an invitee or licensee. The  
23 term "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 that a  
27 reasonable business owner in such industry would implement in a  
28 particular area of the premises to guard against criminal acts or  
29 harmful acts based on the condition of the premises and the cost of  
30 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 reasonably likely to be committed in a particular area of the premises  
5 and sufficient time exists to prevent such crime or injury. In the  
6 absence of such a duty, no civil action for damages shall lie against a  
7 business for injuries sustained by a person in connection with criminal  
8 acts or harmful acts committed by another person on the premises.

9 2. If a duty is found to exist under subsection 1 of this section,  
10 the following affirmative defenses shall apply in any civil action for  
11 damages against a business for injuries sustained by a person in

12 connection with criminal acts or harmful acts committed by another  
13 person on the premises:

14 (1) The business has implemented reasonable security measures;

15 (2) The claimant was on the premises and was:

16 (a) A trespasser;

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

19 (c) Illegally under the influence of any substance controlled  
20 under chapter 195;

21 (d) Attempting to commit a felony; or

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

23 (3) The criminal acts or harmful acts occurred while the business  
24 was closed to the public.

25 3. Evidence of subsequent action taken by the business to  
26 provide protection to persons on the premises shall not be admissible  
27 in evidence to show negligence or to establish the feasibility of any  
28 security measures.

29 4. Nothing in this section shall be construed to create or increase  
30 the liability of a business and does not affect any immunities from or  
31 defenses to liability established under state law or available under  
32 common law to which a business may be entitled.

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