

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

**SENATE BILL NO. 306**

101ST GENERAL ASSEMBLY

1419S.02C

ADRIANE D. CROUSE, Secretary

**AN ACT**

To repeal sections 316.250, 537.346, 537.347, and 537.348, RSMo, and to enact in lieu thereof four new sections relating to landowner liability, with existing penalty provisions.

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

Section A. Sections 316.250, 537.346, 537.347, and  
2 537.348, RSMo, are repealed and four new sections enacted in  
3 lieu thereof, to be known as sections 316.250, 537.346, 537.347,  
4 and 537.348, to read as follows:

316.250. 1. This section shall be known and may be  
2 cited as "Ethan's Law".

3 2. Every owner of a for-profit private swimming pool  
4 or facility shall maintain adequate insurance coverage in an  
5 amount of not less than one million dollars per occurrence  
6 for any liability incurred in the event of injury or death  
7 of a patron to such swimming pool or facility, including any  
8 liability incurred under paragraph [(b)] **(a)** of subdivision  
9 (3) of section 537.348. Such owners shall be required to  
10 register with the department of public safety and provide  
11 proof of such insurance coverage at the time of registration  
12 and when requested by any state or local governmental agency  
13 responsible for the enforcement of this section.

14 3. As used in this section, the following terms shall  
15 mean:

16 (1) "Owner", the owner of the land, including but not  
17 limited to a lessee, tenant, mortgagee in possession and the  
18 person in charge of the land on which a swimming pool is  
19 located;

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

20           (2) "Swimming pool or facility", any for-profit  
21 privately owned tank or body of water with a capacity of  
22 less than five hundred patrons which charges a fee per  
23 admission and is used and maintained for swimming or bathing  
24 purposes which has a maximum depth of greater than twenty-  
25 four inches. "Swimming pool or facility" shall include, but  
26 not be limited to, a swimming pool on lands in connection  
27 with the operation of any type of for-profit privately owned  
28 amusement or recreational park. "Swimming pool or facility"  
29 does not include a swimming pool or facility owned by a  
30 hotel, motel, public or governmental body, agency, or  
31 authority, a naturally occurring body of water or stream, or  
32 a body of water established by a person or persons and used  
33 for watering livestock, irrigation, or storm water  
34 management.

35           4. Any owner who violates the provisions of this  
36 section shall not be permitted to remain in operation until  
37 such owner meets the requirements of this section. Any such  
38 owner who allows operation of a swimming pool or facility in  
39 violation of this section shall be subject to a civil  
40 penalty of two hundred fifty dollars per day for each day of  
41 continued violation up to a maximum of ten thousand dollars  
42 and may be subject to liability for the costs incurred by  
43 the state or a political subdivision for enforcing the  
44 provisions of this section. In a separate court action, the  
45 attorney general may seek reimbursement on behalf of the  
46 state and a political subdivision may seek reimbursement on  
47 behalf of the political subdivision for costs incurred as a  
48 result of enforcing the provisions of this section. For  
49 purposes of this section, "each day of the violation" means  
50 each day that the swimming pool is operational and open for  
51 business and remains in violation of this section. It shall

52 not include days that the swimming pool is not operational  
53 and open for business.

54 5. In addition, any owner who intentionally violates  
55 the provisions of this section is guilty of a class A  
56 misdemeanor. It shall be the duty of each prosecuting  
57 attorney and circuit attorney in their respective  
58 jurisdictions to commence any criminal actions under this  
59 section, and the attorney general shall have concurrent  
60 original jurisdiction to commence such criminal actions  
61 throughout the state where such violations have occurred.

62 6. The department of public safety shall implement  
63 and, with the assistance of local law enforcement agencies,  
64 enforce the provisions of this section.

65 7. An insurance company providing insurance coverage  
66 under this section shall notify the department of public  
67 safety if any owner of a swimming pool or facility as  
68 defined in this section terminates, cancels, or fails to  
69 renew such coverage. The department may utilize local law  
70 enforcement agencies to enforce the provisions of this  
71 section.

537.346. **1.** Except as provided in sections 537.345 to  
2 537.348, and section 537.351, an owner of land owes no duty  
3 of care to any person who enters on the land without charge  
4 to keep his **or her** land safe for recreational use or to give  
5 any general or specific warning with respect to any natural  
6 or artificial condition, structure, or personal property  
7 thereon.

8 **2. No owner of land shall be liable for injuries of a**  
9 **trespasser occurring on his or her residential area or**  
10 **noncovered land, as those terms are defined in section**  
11 **537.348, if such area or land is adjacent to a park, as**  
12 **defined in section 253.010, or a trail, as defined in**

13 **section 258.100, if such trespasser is accessing or accessed**  
14 **the owner's property from the adjacent park or trail.**

537.347. Except as provided in sections 537.345 to  
2 537.348, an owner of land who directly or indirectly invites  
3 or permits any person to enter his or her land for  
4 recreational use, without charge, whether or not the land is  
5 posted, or who directly or indirectly invites or permits any  
6 person to enter his or her land for recreational use in  
7 compliance with a state-administered recreational access **or**  
8 **wildlife management** program, does not thereby:

9 (1) Extend any assurance that the premises are safe  
10 for any purpose;

11 (2) Confer upon such person the status of an invitee,  
12 or any other status requiring of the owner a duty of special  
13 or reasonable care;

14 (3) Assume responsibility for or incur liability for  
15 any injury to such person or property caused by any natural  
16 or artificial condition, structure or personal property on  
17 the premises; or

18 (4) Assume responsibility for any damage or injury to  
19 any other person or property caused by an act or omission of  
20 such person.

537.348. Nothing in this act shall be construed to  
2 create liability, but it does not limit liability that  
3 otherwise would be incurred by those who use the land of  
4 others, or by owners of land for:

5 (1) Malicious or grossly negligent failure to guard or  
6 warn against a dangerous condition, structure, personal  
7 property which the owner knew or should have known to be  
8 dangerous, or negligent failure to guard or warn against an  
9 ultrahazardous condition which the owner knew or should have  
10 known to be dangerous;

11           (2) Injury suffered by a person who has paid a charge  
12 for entry to the land; or

13           (3) Injuries occurring on or in:

14           (a) [Any land within the corporate boundaries of any  
15 city, municipality, town, or village in this state;

16           (b)] Any swimming pool. "Swimming pool" means a pool  
17 or tank, especially an artificial pool or tank, intended and  
18 adapted for swimming and held out as a swimming pool;

19           [(c)] **(b)** Any residential area. "Residential area" as  
20 used [herein] **in this section** means [a tract of land of one  
21 acre or less predominately used for residential purposes, or  
22 a tract of land of any size used for multifamily residential  
23 services] **land used for residential purposes in an area in  
24 which housing predominates, as opposed to industrial and  
25 commercial areas, and any land used for farming or  
26 agricultural purposes;** or

27           [(d)] **(c)** Any noncovered land. "Noncovered land" as  
28 used [herein] **in this section** means any portion of any land,  
29 the surface of which portion is actually used primarily for  
30 commercial, industrial, mining or manufacturing purposes;  
31 provided, however, that use of any portion of any land  
32 primarily for agricultural, grazing, forestry, conservation,  
33 natural area, owner's recreation or similar or related uses  
34 or purposes shall not under any circumstances be deemed to  
35 be use of such portion for commercial, industrial, mining or  
36 manufacturing purposes.

✓