

FIRST REGULAR SESSION

HOUSE BILL NO. 1190

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RHOADS.

2333H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 537, RSMo, by adding thereto two new sections relating to business premises safety.

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 537.786, 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 including, but not limited to, hotels, motels, and apartment complexes;

(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;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **(5) "Person", any individual who is lawfully on the premises, without regard to the**
19 **person's status as an invitee or licensee. The term "person" shall not include employees or**
20 **agents of the business;**

21 **(6) "Premises", real property in the possession of and under the control of a**
22 **business;**

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

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

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

13 **(1) A business that has substantially implemented reasonable security measures**
14 **shall not be liable for damages;**

15 **(2) A business shall not be liable for damages if the claimant was:**

16 **(a) A trespasser;**

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

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

20 **(d) Attempting to commit a felony; or**

21 **(e) Engaged in the commission of a felony;**

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23 **on the premises;**

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

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

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

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