

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1797**  
**99TH GENERAL ASSEMBLY**

5155S.03T

2018

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**AN ACT**

To repeal sections 563.011, 563.041, 569.010, and 569.140, RSMo, and to enact in lieu thereof four new sections relating to unlawful activity on nuclear power plant property, with penalty provisions.

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

Section A. Sections 563.011, 563.041, 569.010, and 569.140, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 563.011, 563.041, 569.010,  
3 and 569.140, to read as follows:

563.011. As used in this chapter the following terms shall mean:

- 2 (1) **"Armed nuclear security guard", a security guard who works at a nuclear**  
3 **power plant, who is employed as part of the security plan approved by the United States**  
4 **Nuclear Regulatory Commission, and who meets the requirements mandated by the United**  
5 **States Nuclear Regulatory Commission for carrying a firearm;**  
6 (2) "Deadly force", physical force which the actor uses with the purpose of causing or  
7 which he or she knows to create a substantial risk of causing death or serious physical injury;  
8 [~~2~~] (3) "Dwelling", any building, inhabitable structure, or conveyance of any kind,  
9 whether the building, inhabitable structure, or conveyance is temporary or permanent, mobile or  
10 immobile, which has a roof over it, including a tent, and is designed to be occupied by people  
11 lodging therein at night;

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.

12           ~~[(3)]~~ (4) "Forcible felony", any felony involving the use or threat of physical force or  
13 violence against any individual, including but not limited to murder, robbery, burglary, arson,  
14 kidnapping, assault, and any forcible sexual offense;

15           ~~[(4)]~~ (5) "Premises", includes any building, inhabitable structure and any real property;

16           ~~[(5)]~~ (6) "Private person", any person other than a law enforcement officer;

17           ~~[(6)]~~ (7) "Private property", any real property in this state that is privately owned or  
18 leased;

19           ~~[(7)]~~ (8) "Remain after unlawfully entering", to remain in or upon premises after  
20 unlawfully entering as defined in this section;

21           ~~[(8)]~~ (9) "Residence", a dwelling in which a person resides either temporarily or  
22 permanently or is visiting as an invited guest;

23           ~~[(9)]~~ (10) **"Structure or fenced yard", any structure, fenced yard, wall, building,**  
24 **other similar barrier, or any combination of the foregoing that is located on the real**  
25 **property of a nuclear power plant and that is posted with signage indicating it is a felony**  
26 **to trespass;**

27           (11) "Unlawfully enter", a person unlawfully enters in or upon premises or private  
28 property when he or she enters such premises or private property and is not licensed or privileged  
29 to do so. A person who, regardless of his or her purpose, enters in or upon private property or  
30 premises that are at the time open to the public does so with license unless he or she defies a  
31 lawful order not to enter, personally communicated to him or her by the owner of such premises  
32 or by another authorized person. A license to enter in a building that is only partly open to the  
33 public is not a license to enter in that part of the building that is not open to the public.

563.041. 1. A person may, subject to the limitations of subsection 2, use physical force  
2 upon another person when and to the extent that he or she reasonably believes it necessary to  
3 prevent what he or she reasonably believes to be the commission or attempted commission by  
4 such person of stealing, property damage or tampering in any degree.

5           2. A person may use deadly force under circumstances described in subsection 1 only  
6 when such use of deadly force is authorized under other sections of this chapter.

7           3. The justification afforded by this section extends to the use of physical restraint as  
8 protective force provided that the actor takes all reasonable measures to terminate the restraint as  
9 soon as it is reasonable to do so.

10           4. **An armed nuclear security guard may use the following levels of physical force**  
11 **against another person at a nuclear power plant or within a structure or fenced yard of a**  
12 **nuclear power plant if the armed nuclear security guard reasonably believes that such force**  
13 **is necessary:**

14           **(1) An armed nuclear security guard may use physical force, as he or she reasonably**  
15 **believes is immediately necessary, up to and including deadly physical force to:**

16           **(a) Prevent an action that would constitute murder in the first or second degree**  
17 **under section 565.020 or 565.021;**

18           **(b) Prevent an action that would constitute voluntary manslaughter under section**  
19 **565.023;**

20           **(c) Prevent an action that would constitute assault in the first or second degree**  
21 **under section 565.050 or 565.052; or**

22           **(d) Defend himself, herself, or a third person from the use or imminent use of deadly**  
23 **physical force;**

24           **(2) An armed nuclear security guard may use physical force, as he or she reasonably**  
25 **believes is immediately necessary, up to but not including deadly physical force to prevent**  
26 **an action that would constitute:**

27           **(a) Assault in the third or fourth degree under section 565.054 or 565.056;**

28           **(b) Kidnapping in the first, second, or third degree under section 565.110, 565.120,**  
29 **or 565.130;**

30           **(c) Burglary in the first or second degree under section 569.160 or 569.170;**

31           **(d) Arson in the first, second, or third degree under section 569.040, 569.050, or**  
32 **569.053;**

33           **(e) Property damage in the first degree under section 569.100;**

34           **(f) Robbery in the first or second degree under section 570.023 or 570.025;**

35           **(g) Armed criminal action under section 571.015; or**

36           **(h) Trespass in the first degree under section 569.140;**

37           **(3) An armed nuclear security guard is justified in threatening to use physical force**  
38 **or deadly physical force if and to the extent a reasonable armed nuclear security guard**  
39 **believes it necessary to protect himself, herself, or others against another person's potential**  
40 **use of physical force or deadly physical force.**

41           **5. Notwithstanding any provisions of section 563.016 to the contrary, an armed**  
42 **nuclear security guard, employer of an armed nuclear security guard, or owner of a nuclear**  
43 **power plant shall not be subject to civil liability for conduct of an armed nuclear security**  
44 **guard that is permitted by this section.**

45           **6. The defendant shall have the burden of injecting the issue of justification under this**  
46 **section.**

569.010. As used in this chapter the following terms mean:

2 (1) "Cave or cavern", any naturally occurring subterranean cavity enterable by a person  
3 including, without limitation, a pit, pothole, natural well, grotto, and tunnel, whether or not the  
4 opening has a natural entrance;

5 (2) "Enter unlawfully or remain unlawfully", a person enters or remains in or upon  
6 premises when he or she is not licensed or privileged to do so. A person who, regardless of his  
7 or her purpose, enters or remains in or upon premises which are at the time open to the public  
8 does so with license and privilege unless he or she defies a lawful order not to enter or remain,  
9 personally communicated to him or her by the owner of such premises or by other authorized  
10 person. A license or privilege to enter or remain in a building which is only partly open to the  
11 public is not a license or privilege to enter or remain in that part of the building which is not open  
12 to the public;

13 (3) **"Nuclear power plant", a power generating facility that produces electricity by**  
14 **means of a nuclear reactor owned by a utility or a consortium utility. "Nuclear power**  
15 **plant" shall be limited to property within the structure or fenced yard, as defined in section**  
16 **563.011;**

17 (4) "To tamper", to interfere with something improperly, to meddle with it, displace it,  
18 make unwarranted alterations in its existing condition, or to deprive, temporarily, the owner or  
19 possessor of that thing;

20 [~~4~~] (5) "Utility", an enterprise which provides gas, electric, steam, water, sewage  
21 disposal, or communication, video, internet, or voice over internet protocol services, and any  
22 common carrier. It may be either publicly or privately owned or operated.

569.140. 1. A person commits the offense of trespass in the first degree if he or she  
2 knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable  
3 structure or upon real property.

4 2. A person does not commit the offense of trespass in the first degree by entering or  
5 remaining upon real property unless the real property is fenced or otherwise enclosed in a manner  
6 designed to exclude intruders or as to which notice against trespass is given by:

7 (1) Actual communication to the actor; or

8 (2) Posting in a manner reasonably likely to come to the attention of intruders.

9 3. The offense of trespass in the first degree is a class B misdemeanor, unless the victim  
10 is intentionally targeted as a law enforcement officer, as defined in section 556.061, or the victim  
11 is targeted because he or she is a relative within the second degree of consanguinity or affinity to  
12 a law enforcement officer, in which case it is a class A misdemeanor. **If the building or real**  
13 **property is part of a nuclear power plant, the offense of trespass in the first degree is a class**  
14 **E felony.**

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