

HCS SS SB 608 -- LIABILITY OF PROPERTY OWNERS

SPONSOR: Hoskins (Rhoads)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Litigation Reform by a vote of 7 to 2. Voted "Do Pass" by the Rules- Legislative Oversight Committee by a vote of 10 to 1.

Currently, a land owner is not liable for the death or injury of a trespasser, when the trespasser is substantially impaired by alcohol or illicit controlled substances, unless the land owner acted with negligence or willful and wanton misconduct. This bill amends the law so that the property owner may be held liable only for willful and wanton misconduct (Section 537.349, RSMo).

The bill amends the definition of "public entity" for purposes of sovereign or governmental tort immunity to include a public employee (Section 537.600).

This bill creates the "Business Premises Safety Act", which provides that a business has no duty to guard against criminal or harmful acts occurring on the business's premises unless the business knows or has reason to know that such acts are being committed or are reasonably likely to be committed in a particular area of the premises, and there is sufficient time to prevent such injury. In the absence of a duty, the business shall not be liable for the criminal or harmful acts of another person or an employee lawfully carrying a concealed weapon. If the business had a duty to guard against criminal or harmful acts, the business can claim the following as affirmative defenses:

- (1) The business has implemented reasonable security measures;
- (2) The claimant was a trespasser, or attempting to or committing a felony; and
- (3) The acts occurred while the business was closed. Subsequent remedial measures are not admissible to show negligence or the feasibility of security measures (Section 537.787).

PROPONENTS: Supporters say that this bill corrects several appellate opinions that create exceptions to the general rule that a business is not liable for the criminal actions of third parties. This removes the burden imposed upon businesses in Missouri of the financial costs of random acts of violence.

Testifying for the bill were Representative Rhoads; National Federation of Independent Business; Missouri Retailers Association;

Missouri Grocers Association; Missouri Tire Industry; Missouri Bankers Association; Missouri Chamber of Commerce and Industry; Associated Industries of Missouri; Property Casualty Insurers Association of America; and the Missouri Insurance Coalition.

OPPONENTS: There was no opposition voiced to the committee.