

SECOND REGULAR SESSION

HOUSE BILL NO. 2667

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KEATHLEY.

6246H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to claims for negligence.

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

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.1660, to read as follows:

537.1660. 1. This section shall be known and may be cited as the "Eliminate Criminal Profiteering Act".

2. As used in this section, the following terms mean:

(1) "Negligent security", any claim against an owner or occupier, or against a security contractor, based on a tort or nuisance that arises from an alleged failure to make or keep the premises and its approaches safe and seeks to recover any damages;

(2) "Owner or occupier", any person who owns, leases, subleases, occupies, operates, maintains, or manages real property of any kind or any director, officer, employee, or agent of such person;

(3) "Person", a natural person, an entity, or the government;

(4) "Prior occurrences of substantially similar wrongful conduct", a prior occurrence of conduct that is sufficiently similar in nature and character, degree of dangerousness, and circumstances to the wrongful conduct from which a claim of negligent security arises to lead a reasonable person in the position of the owner or occupier to apprehend that such wrongful conduct is reasonably likely to occur again upon the premises and to understand that a specific and known physical condition of the premises has created a risk of such wrongful conduct on the premises that is

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 substantially greater than the general risk of such wrongful conduct in the vicinity of the
19 premises;

20 (5) "Security contractor", any person who contracts with an owner or occupier
21 to provide protective or security services upon any premises or any director, officer,
22 employee, or agent of such person;

23 (6) "Third person", any person other than an owner or occupier or a security
24 contractor, or a person under the direction, control, or supervision of an owner or
25 occupier or security contractor;

26 (7) "Wrongful conduct":

27 (a) Any violation of federal or state law, including an ordinance of any political
28 subdivision of the state, that is punishable as a felony or misdemeanor, regardless of
29 whether such violation results in an arrest, citation, accusation, indictment, or
30 conviction; or

31 (b) Any other conduct that amounts to an intentional or willful and wanton tort.

32 3. Notwithstanding any other provision of law, a person who was participating
33 or engaging in wrongful conduct, or attempting to do the same, shall not bring an action
34 for negligence or otherwise collect any damages for negligent conduct relating to any
35 acts, occurrences, or other events resulting in whole or in part from, or otherwise
36 relating to, the wrongful conduct. This subsection applies to a person's heirs, estate,
37 assigns, and other legal representatives. The defendant shall have the burden of proving
38 by a preponderance of the evidence that a person was participating or engaging in
39 wrongful conduct, or attempting to do the same.

40 4. (1) General damages and past and future wages shall not be awarded to a
41 person in an action for negligence arising from an automobile accident if such person
42 was an unauthorized alien at the time of the accident. This subsection applies to a
43 person's heirs, estate, assigns, and other legal representatives. A plaintiff in an action
44 for negligence arising from an automobile accident who intends to seek general damages
45 or past and future wages shall provide, with the initial disclosure statement or as soon
46 thereafter as is practicable, documents showing that at the time of the accident the
47 plaintiff was a citizen or lawful permanent resident of the United States or, if not a
48 citizen or lawful permanent resident, the plaintiff was not an unauthorized alien. It
49 shall be the plaintiff's burden to prove the requirement under this subdivision by a
50 preponderance of the evidence and failure to do so shall constitute insufficient evidence
51 as a matter of law to support an award of general damages or past and future wages.

52 (2) For purposes of this section, "unauthorized alien" means a person who is
53 unlawfully present in the United States according to the federal Immigration and
54 Nationality Act, 8 U.S.C. 1101 et seq.

55 (3) This subsection shall not apply to a claim made against an uninsured or
56 underinsured motorist policy that names the unauthorized alien as an insured.

57 5. (1) For the purposes of any action for negligent security, an owner or occupier
58 owes no duty to protect an invitee or licensee from any type of wrongful conduct of a
59 third person unless the owner or occupier has actual knowledge of prior occurrences of
60 substantially similar wrongful conduct upon the premises within the preceding one year.
61 If an owner or occupier has such knowledge, the owner's or occupier's duty shall be to
62 take reasonable care under the circumstances. There shall be a presumption that the
63 owner or occupier took reasonable care under the circumstances if the owner or
64 occupier has:

65 (a) Requested the assistance of the local police and followed any instructions
66 from the police related to the same;

67 (b) Followed the guidelines of a reputable third party relating to security and
68 safety measures; or

69 (c) Hired a security contractor.

70 (2) Notwithstanding subdivision (1) of this subsection, for the purposes of any
71 action for negligent security, an owner or occupier owes no duty to protect an invitee or
72 licensee from the invitee's or licensee's own wrongful conduct or the wrongful conduct
73 of a third person if the invitee or licensee comes upon the premises for the purpose of, or
74 in the course of, engaging in wrongful conduct or the invitee or licensee engages in any
75 wrongful conduct while on the premises.

76 (3) A trespasser shall not maintain an action for negligent security. For
77 purposes of this section, a person is presumed to be a trespasser if he or she is physically
78 present on the premises of an owner or occupier outside of posted business hours or at a
79 time when the premises is not open to the public.

80 (4) For purposes of this section, if an owner or occupier engages a security
81 contractor, the security contractor owes the same duties that an owner or occupier
82 would owe under this subsection.

83 6. (1) If the trier of fact finds that a defendant is liable to a plaintiff in an action
84 for negligent security, the trier of fact shall make an apportionment of fault. In making
85 such an apportionment, the trier of fact shall be instructed to apportion fault among all
86 of the following that are applicable, regardless of whether a party to the action and
87 regardless of whether a plaintiff can legally collect any damages from such person:

88 (a) The plaintiff;

89 (b) An owner or occupier;

90 (c) The government or any governmental agency related to a failure to enforce
91 the law and otherwise maintain law and order;

92 (d) Any other third person whose wrongful conduct or negligence was a cause or
93 contributing factor to the event from which the claim of negligent security arises; and

94 (e) Any other person to whom fault otherwise should be apportioned.

95 (2) In connection with an apportionment of fault under this subsection, no party
96 shall offer evidence, or make an argument or other comment in the hearing of any juror
97 or prospective juror, concerning:

98 (a) Any sentence of imprisonment or probation, fine, or other punishment that
99 has been or could be imposed in a criminal prosecution of any person for the wrongful
100 conduct from which the claim of negligent security arises;

101 (b) The financial resources of or collectability of any judgment against any party
102 or nonparty; or

103 (c) The effect of an apportionment of fault upon any award of damages.

104 (3) If the finder of fact fails to apportion a reasonable degree of fault under
105 subdivision (1) of this subsection to each third person whose wrongful conduct was a
106 cause or contributing factor to the event from which the claim of negligent security
107 arises, the court shall set aside the verdict of the jury and order a retrial of liability and
108 damages. There shall be a presumption that an apportionment of fault is unreasonable
109 if the total percentage of fault apportioned to all persons who engaged in wrongful
110 conduct is less than the total percentage of fault apportioned to all other persons. To
111 overcome this presumption, the trial court shall make specific findings in writing. Such
112 findings and the conclusion of reasonableness shall be reviewed de novo on any appeal.

113 7. Nothing in this section prohibits a victim of crime from recovering full
114 criminal restitution under the procedures set forth for the recovery of such restitution.

115 8. This section applies to all claims that are brought on or after August 28, 2026.

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