

105TH CONGRESS
1ST SESSION

S. 566

To limit the civil liability of business entities that provide facility tours.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 1997

Mr. SANTORUM (for himself and Mr. COVERDELL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To limit the civil liability of business entities that provide facility tours.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LIABILITY OF BUSINESS ENTITIES PROVIDING**
4 **TOURS OF FACILITIES.**

5 (a) DEFINITIONS.—In this section:

6 (1) BUSINESS ENTITY.—The term “business
7 entity” means a firm, corporation, association, part-
8 nership, consortium, joint venture, or other form of
9 enterprise.

1 (2) FACILITY.—The term “facility” means any
2 real property, including any building, improvement,
3 or appurtenance.

4 (3) GROSS NEGLIGENCE.—The term “gross
5 negligence” means voluntary and conscious conduct
6 by a person with knowledge (at the time of the con-
7 duct) that the conduct is likely to be harmful to the
8 health or well-being of another person.

9 (4) INTENTIONAL MISCONDUCT.—The term
10 “intentional misconduct” means conduct by a person
11 with knowledge (at the time of the conduct) that the
12 conduct is harmful to the health or well-being of an-
13 other person.

14 (5) STATE.—The term “State” means each of
15 the several States, the District of Columbia, the
16 Commonwealth of Puerto Rico, the Virgin Islands,
17 Guam, American Samoa, the Northern Mariana Is-
18 lands, any other territory or possession of the Unit-
19 ed States, or any political subdivision of any such
20 State, territory, or possession.

21 (b) LIMITATION ON LIABILITY.—

22 (1) IN GENERAL.—Subject to subsection (c), a
23 business entity shall not be subject to civil liability
24 relating to any injury to, or death of an individual
25 occurring at a facility of the business entity if—

1 (A) such injury or death occurs during a
2 tour of the facility in an area of the facility that
3 is not otherwise accessible to the general public;
4 and

5 (B) the business entity authorized the
6 tour.

7 (2) APPLICATION.—This subsection shall
8 apply—

9 (A) with respect to civil liability under
10 Federal and State law; and

11 (B) regardless of whether an individual
12 pays for the tour.

13 (c) EXCEPTION FOR LIABILITY.—Subsection (b)
14 shall not apply to an injury or death that results from
15 an act or omission of a business entity that constitutes
16 gross negligence or intentional misconduct, including any
17 misconduct that—

18 (1) constitutes a crime of violence (as that term
19 is defined in section 16 of title 18, United States
20 Code) or act of international terrorism (as that term
21 is defined in section 2331 of title 18) for which the
22 defendant has been convicted in any court;

23 (2) constitutes a hate crime (as that term is
24 used in the Hate Crime Statistics Act (28 U.S.C.
25 534 note));

1 (3) involves a sexual offense, as defined by ap-
2 plicable State law, for which the defendant has been
3 convicted in any court; or

4 (4) involves misconduct for which the defendant
5 has been found to have violated a Federal or State
6 civil rights law.

7 (d) SUPERSEDING PROVISION.—

8 (1) IN GENERAL.—Subject to paragraph (2)
9 and subsection (e), this Act preempts the laws of
10 any State to the extent that such laws are inconsis-
11 tent with this Act, except that this Act shall not pre-
12 empt any State law that provides additional protec-
13 tion from liability for a business entity for an injury
14 or death with respect to which the conditions under
15 subparagraphs (A) and (B) of subsection (b)(1)
16 apply.

17 (2) LIMITATION.—Nothing in this Act shall be
18 construed to supersede any Federal or State health
19 or safety law.

20 (e) ELECTION OF STATE REGARDING NON-
21 APPLICABILITY.—This Act shall not apply to any civil ac-
22 tion in a State court against a business entity in which
23 all parties are citizens of the State if such State enacts
24 a statute—

25 (1) citing the authority of this subsection;

1 (2) declaring the election of such State that this
2 Act shall not apply to such civil action in the State;
3 and
4 (3) containing no other provisions.

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