

106TH CONGRESS
1ST SESSION

S. 845

To limit the civil liability of business entities providing use of facilities to nonprofit organizations.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 1999

Mr. SANTORUM 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 providing use of facilities to nonprofit organizations.

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 **USE OF FACILITIES TO NONPROFIT ORGANI-**
5 **ZATIONS.**

6 (a) DEFINITIONS.—In this section:

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

16 (A) any organization described in section
17 501(c)(3) of the Internal Revenue Code of 1986
18 and exempt from tax under section 501(a) of
19 such Code; or

20 (B) any not-for-profit organization orga-
21 nized and conducted for public benefit and
22 operated primarily for charitable, civic, edu-
23 cational, religious, welfare, or health purposes.

24 (6) STATE.—The term “State” means each of
25 the several States, the District of Columbia, the

1 Commonwealth of Puerto Rico, the Virgin Islands,
2 Guam, American Samoa, the Northern Mariana Is-
3 lands, any other territory or possession of the
4 United States, or any political subdivision of any
5 such State, territory, or possession.

6 (b) LIMITATION ON LIABILITY.—

7 (1) IN GENERAL.—Subject to subsection (c), a
8 business entity shall not be subject to civil liability
9 relating to any injury or death occurring at a facility
10 of the business entity in connection with a use of
11 such facility by a nonprofit organization if—

12 (A) the use occurs outside of the scope of
13 business of the business entity;

14 (B) such injury or death occurs during a
15 period that such facility is used by the non-
16 profit organization; and

17 (C) the business entity authorized the use
18 of such facility by the nonprofit organization.

19 (2) APPLICATION.—This subsection shall
20 apply—

21 (A) with respect to civil liability under
22 Federal and State law; and

23 (B) regardless of whether a nonprofit orga-
24 nization pays for the use of a facility.

1 (c) EXCEPTION FOR LIABILITY.—Subsection (b)
2 shall not apply to an injury or death that results from
3 an act or omission of a business entity that constitutes
4 gross negligence or intentional misconduct, including any
5 misconduct that—

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

11 (2) constitutes a hate crime (as that term is
12 used in the Hate Crime Statistics Act (28 U.S.C.
13 534 note));

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

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

20 (d) SUPERSEDING PROVISION.—

21 (1) IN GENERAL.—Subject to paragraph (2)
22 and subsection (e), this Act preempts the laws of
23 any State to the extent that such laws are incon-
24 sistent with this Act, except that this Act shall not
25 preempt any State law that provides additional pro-

1 tection from liability for a business entity for an in-
2 jury or death with respect to which conditions under
3 subparagraphs (A) through (C) of subsection (b)(1)
4 apply.

5 (2) LIMITATION.—Nothing in this Act shall be
6 construed to supersede any Federal or State health
7 or safety law.

8 (e) ELECTION OF STATE REGARDING NONAPPLICA-
9 BILITY.—This Act shall not apply to any civil action in
10 a State court against a business entity in which all parties
11 are citizens of the State if such State enacts a statute—

12 (1) citing the authority of this subsection;

13 (2) declaring the election of such State that this
14 Act shall not apply to such civil action in the State;
15 and

16 (3) containing no other provision.

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