

105TH CONGRESS  
1ST SESSION

# S. 564

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

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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

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## 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 op-  
22           erated 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 Unit-  
 4 ed States, or any political subdivision of any such  
 5 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 inconsis-  
 24 tent with this Act, except that this Act shall not pre-  
 25 empt any State law that provides additional protec-

1       tion from liability for a business entity for an injury  
2       or death with respect to which conditions under sub-  
3       paragraphs (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 NON-  
9       APPLICABILITY.—This Act shall not apply to any civil ac-  
10      tion in a State court against a business entity in which  
11      all parties are citizens of the State if such State enacts  
12      a statute—

13           (1) citing the authority of this subsection;

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

17           (3) containing no other provisions.

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