

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.

