

106TH CONGRESS
1ST SESSION

S. 843

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

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 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
19 United States, or any political subdivision of any
20 such 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 incon-
 11 sistent with this Act, except that this Act shall not
 12 preempt any State law that provides additional pro-
 13 tection from liability for a business entity for an in-
 14 jury or death with respect to which the conditions
 15 under subparagraphs (A) and (B) of subsection
 16 (b)(1) 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 NONAPPLICA-
 21 BILITY.—This Act shall not apply to any civil action in
 22 a State court against a business entity in which all parties
 23 are citizens of the State if such State enacts a statute—

24 (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 provision.

