

CHAMBER ACTION

1 The Committee on Judiciary recommends the following:

2  
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to negligence; creating s. 812.18, F.S.;  
7 recognizing an expectation regarding the provision of  
8 adequate security from certain criminal acts on specified  
9 commercial real property; providing security conditions  
10 that may be presented as evidence; authorizing certain  
11 evidence to be admissible in civil or criminal  
12 proceedings; providing applicability; providing an  
13 effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Section 812.18, Florida Statutes, is created to  
18 read:

19 812.18 Business parking lot security.--

20 (1) The Legislature recognizes that a person or  
21 organization owning or controlling an interest in commercial  
22 real property upon which retail sales of goods or services takes  
23 place and who owns or controls a parking lot of 150 or more

HB 573

2004  
CS

24 parking spaces associated with such retail property is expected  
25 to provide adequate security for invitees, guests, and other  
26 members of the public to protect against reasonably foreseeable  
27 and preventable criminal acts that may occur in such parking  
28 lot, adjacent public walkways, common areas, and public building  
29 entrances and exits on the premises.

30 (2) In determining whether adequate security to protect  
31 against a reasonably foreseeable and preventable criminal act  
32 was provided at the time that the criminal act occurred, any  
33 party may present evidence on motion for summary judgment or at  
34 trial that some or all of the following security measures had or  
35 had not been taken and maintained in a reasonable, nonnegligent  
36 manner:

37 (a) Signs were prominently posted in the parking lot and  
38 other exterior public places on the premises indicating the  
39 hours of normal business operations and advising that the  
40 premises is monitored by video cameras. Signs may also provide a  
41 safety message substantially similar to the following: TO HELP  
42 PROTECT YOUR SAFETY AND PERSONAL PROPERTY, PLEASE LOCK YOUR  
43 VEHICLE, BE ALERT, AND DO NOT LEAVE VALUABLES IN YOUR VEHICLE.

44 (b) Substantially all of the parking lot, adjacent public  
45 walkways, common areas, and public building entrances and exits  
46 on the premises, including the location where the criminal act  
47 occurred, were illuminated at an intensity of at least 2 foot-  
48 candles per square foot at 36 inches above the surface of the  
49 ground, pavement, or walkway, as attested to by a certified  
50 electrical engineer or a licensed electrical contractor, unless

HB573

2004  
CS

51 another level of illumination is otherwise required by local,  
52 state, or federal law.

53 (c) The person or organization owning or controlling the  
54 property adopted and maintained reasonable policies and training  
55 programs for employees concerning crime awareness and prevention  
56 and safety and security of invitees, guests, and other members  
57 of the public.

58 (d) Security cameras were installed and were operating  
59 during business hours and for at least 30 minutes before the  
60 opening of business and after the closing of business covering  
61 substantially all the parking lot and adjacent public walkways,  
62 common areas, and public building entrances and exits on the  
63 premises, and the recordings for the cameras were maintained for  
64 at least 30 days.

65 (e) Security cameras were installed and maintained and  
66 were monitoring the location on the premises where the criminal  
67 act occurred.

68 (f) One or more private security guards licensed pursuant  
69 to chapter 493 or police officers were on duty, either  
70 monitoring surveillance cameras or patrolling the premises, with  
71 such frequency that each area of the parking lot, public  
72 walkways, common areas, and public building entrances and exits  
73 could be observed by the guard or guards at not less than 15-  
74 minute intervals. The number of security guards or police  
75 officers utilized should be based on a reasonable assessment  
76 pursuant to paragraph (h). This assessment should be based, at a  
77 minimum, on the number of prior crimes occurring on and around  
78 the parking lot, adjacent public walkways, common areas, and

HB 573

2004  
CS

79 public building entrances and exits on the premises, the time of  
 80 day and season of commission of such crimes relative to the  
 81 hours of business operations, the size of the parking lot, and  
 82 the ability of the security guards or police officers to monitor  
 83 and patrol the premises in a timely manner as described above.

84 (g) Fencing had been installed and maintained adjacent to  
 85 property which limited pedestrian access and entry onto the  
 86 premises via public accessways and walkways and denied access  
 87 onto the premises from areas not intended for access onto the  
 88 premises.

89 (h) A person or organization owning or controlling an  
 90 interest in commercial real property made an assessment of the  
 91 appropriate security measures for the parking lot, public  
 92 walkways, common areas, and public building entrances and exits  
 93 based upon criminal incident reports from the local law  
 94 enforcement agency. This assessment shall include an on-site  
 95 examination and analysis of the business and surrounding  
 96 properties by the person or organization to ascertain what  
 97 crimes have occurred in the past, crimes likely to occur in the  
 98 future, and the present status of security measures. The results  
 99 and conclusions must be in writing and must be available through  
 100 discovery.

101 (3) The provisions of this section and evidence relating  
 102 to compliance or noncompliance with this section shall be  
 103 admissible in evidence in any civil or criminal proceeding, if  
 104 such evidence is otherwise admissible pursuant to the Florida  
 105 Evidence Code.

HB573

2004  
CS

106        (4) Nothing in this section is intended to change the  
107        standard of care or elements of any cause of action.

108        (5) This section shall not apply if the criminal act was  
109        committed by the person owning or controlling the interest in  
110        the commercial real property or an employee or agent of such  
111        person.

112        Section 2. This act shall take effect July 1, 2005, and  
113        shall apply to causes of action that accrue on or after that  
114        date.