

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

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11 Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Section 812.18, Florida Statutes, is created to  
 14 read:

15           812.18 Business parking lot security.--

16           (1) The Legislature recognizes that a person or  
 17 organization owning or controlling an interest in commercial  
 18 real property upon which retail sales of goods or services takes  
 19 place and who owns or controls a parking lot of 150 or more  
 20 parking spaces associated with such retail property is expected  
 21 to provide adequate security for invitees, guests, and other  
 22 members of the public to protect against reasonably foreseeable  
 23 and preventable criminal acts that may occur in such parking  
 24 lot, adjacent public walkways, common areas, and public building  
 25 entrances and exits on the premises.

26           (2) In determining whether adequate security to protect  
 27 against a reasonably foreseeable and preventable criminal act  
 28 was provided at the time that the criminal act occurred, any

29 party may present evidence on motion for summary judgment or at  
30 trial that some or all of the following security measures had or  
31 had not been taken and maintained in a reasonable, nonnegligent  
32 manner:

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

40 (b) Substantially all of the parking lot, adjacent public  
41 walkways, common areas, and public building entrances and exits  
42 on the premises, including the location where the criminal act  
43 occurred, were illuminated at an intensity of at least 2 foot-  
44 candles per square foot at 36 inches above the surface of the  
45 ground, pavement, or walkway, as attested to by a certified  
46 electrical engineer or a licensed electrical contractor, unless  
47 another level of illumination is otherwise required by local,  
48 state, or federal law.

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

54 (d) Security cameras were installed and were operating  
55 during business hours and for at least 30 minutes before the  
56 opening of business and after the closing of business covering

57 substantially all the parking lot and adjacent public walkways,  
58 common areas, and public building entrances and exits on the  
59 premises, and the recordings for the cameras were maintained for  
60 at least 30 days.

61 (e) Security cameras were installed and maintained and  
62 were monitoring the location on the premises where the criminal  
63 act occurred.

64 (f) One or more private security guards licensed pursuant  
65 to chapter 493 or police officers were on duty, either  
66 monitoring surveillance cameras or patrolling the premises, with  
67 such frequency that each area of the parking lot, public  
68 walkways, common areas, and public building entrances and exits  
69 could be observed by the guard or guards at not less than 15-  
70 minute intervals. The number of security guards or police  
71 officers utilized should be based on a reasonable assessment  
72 pursuant to paragraph (h). This assessment should be based, at a  
73 minimum, on the number of prior crimes occurring on and around  
74 the parking lot, adjacent public walkways, common areas, and  
75 public building entrances and exits on the premises, the time of  
76 day and season of commission of such crimes relative to the  
77 hours of business operations, the size of the parking lot, and  
78 the ability of the security guards or police officers to monitor  
79 and patrol the premises in a timely manner as described above.

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

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

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

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

104        (5) This section shall not apply if the criminal act was  
105 committed by the person owning or controlling the interest in  
106 the commercial real property or an employee or agent of such  
107 person.

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