

Bill No. HB 1931, 1st Eng.

Barcode 810134

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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11 Senator Smith moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Lines 45-87, delete those lines

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16 and insert:

17 Section 2. Section 812.18, Florida Statutes, is
18 created to read:

19 812.18 Business parking lot security.--

20 (1) The Legislature recognizes that a person or
 21 organization who owns or controls an interest in commercial
 22 real property upon which the sales of goods or services takes
 23 place and who owns or controls a parking lot of 150 or more
 24 parking spaces associated with such commercial property should
 25 provide adequate security for invitees, guests, and other
 26 members of the public who are legally on the premises to
 27 protect against reasonably foreseeable and preventable
 28 criminal acts that may occur in such parking lot, adjacent
 29 public walkways, common areas, and commercial business
 30 entrances and exits on the premises.

31 (2) In determining whether adequate security to

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1 protect against a reasonably foreseeable and preventable
2 criminal act was provided at the time that the criminal act
3 occurred, a presumption exists that a person or organization
4 who owns or controls an interest in commercial real property
5 upon which the sales of goods or services takes place and who
6 owns or controls a parking lot of 150 or more parking spaces
7 associated with such commercial property has fulfilled any
8 duty to provide adequate security in such parking lot to any
9 person legally on the property in such parking lot against
10 criminal acts committed by third parties if the court finds
11 that the owner met the following conditions in a non-negligent
12 manner at the time the criminal act occurred, and any party
13 may present evidence on motion for summary judgment or at
14 trial that some or all of the following security measures had
15 or had not been taken and maintained in a reasonable,
16 non-negligent manner:

17 (a) Signs were prominently posted in the parking lot
18 and other exterior public places on the premises indicating
19 the hours of normal business operations and advising that the
20 premises are monitored by video cameras. Signs may also
21 provide a safety message substantially similar to the
22 following: TO HELP PROTECT YOUR SAFETY AND PERSONAL PROPERTY,
23 PLEASE LOCK YOUR VEHICLE, BE ALERT, AND DO NOT LEAVE VALUABLES
24 IN YOUR VEHICLE.

25 (b) Substantially all of the parking lot, adjacent
26 public walkways, common areas, and commercial business
27 entrances and exits on the premises, including the location
28 where the criminal act occurred, were illuminated at an
29 intensity of at least 2 foot-candles per square foot at 36
30 inches above the surface of the ground, pavement, or walkway,
31 as attested to by a certified electrical engineer or a

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1 licensed electrical contractor, unless another level of
2 illumination is required by local, state, or federal law.

3 (c) The person or organization who owns or controls
4 the property adopted and maintained reasonable policies and
5 training programs for employees concerning crime awareness and
6 prevention and safety and security of invitees, guests, and
7 other members of the public.

8 (d) Security cameras were installed and were operating
9 during business hours and covered substantially all the
10 parking lot and adjacent public walkways, common areas, and
11 commercial building entrances and exits on the premises, and
12 the recording for the cameras were maintained for at least 30
13 days.

14 (e) One or more private security guards licensed
15 pursuant to chapter 493 or police officers were on duty,
16 either monitoring surveillance cameras or patrolling the
17 premises, with such frequency that each area of the parking
18 lot, public walkways, common areas, and commercial building
19 entrances and exits could be observed by the guard or guards
20 at not less than 30-minute intervals. The number of security
21 guards or police officers utilized should be based on a
22 reasonable assessment pursuant to paragraph (g). This
23 assessment should be based, at a minimum, on the number of
24 prior crimes occurring on and around the parking lot, adjacent
25 public walkways, common areas, and commercial building
26 entrances and exits on the premises, the time of day and
27 season of commission of such crimes relative to the hours of
28 business operations, the size of the parking lot, and the
29 ability of the security guards or police officers to monitor
30 and patrol the premises in a timely manner as described above.

31 (f) When not prohibited by law, fencing had been

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1 installed and maintained adjacent to property which limited
 2 pedestrian access and entry onto the premises via public
 3 accessways and walkways and denied access onto the premises
 4 from areas not intended for access onto the premises.

5 (g) A person or organization owning or controlling an
 6 interest in commercial real property made an assessment of the
 7 appropriate security measures for the parking lot, public
 8 walkways, common areas, and commercial building entrances and
 9 exits based upon criminal-incident reports from the local law
 10 enforcement agency. This assessment shall include an onsite
 11 examination and analysis of the business and surrounding
 12 properties by the person or organization to ascertain what
 13 crimes have occurred in the past, crimes likely to occur in
 14 the future, and the present status of security measures. The
 15 results and conclusions must be in writing and must be
 16 available through discovery.

17 (3) The provisions of this section and evidence
 18 relating to compliance or noncompliance with this section
 19 shall be admissible in evidence in any civil or criminal
 20 proceeding, if such evidence is otherwise admissible pursuant
 21 to the Florida Evidence Code.

22 (4) This section does not apply if the criminal act
 23 was committed by the person owning or controlling the interest
 24 in the commercial real property or an employee or agent of
 25 such person.

26 Section 3. Section 768.0710, Florida Statutes, is
 27 repealed.

28 Section 4. This act shall take effect July 1, 2005.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Lines 9-23, delete those lines

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5 and insert:

6 proven by circumstantial evidence; creating s.

7 812.18, F.S.; providing legislative intent

8 relating to business parking lot security;

9 providing an evidentiary presumption relating

10 to determining whether there was adequate

11 security to protect against a reasonably

12 foreseeable and preventable criminal act that

13 occurs in a commercial parking lot; providing

14 for admissibility of evidence relating to

15 compliance with this section; providing an

16 exception to applicability of the section;

17 repealing s. 768.0710, F.S., relating to the

18 duty to maintain premises in a reasonably safe

19 condition for the safety of business invitees;

20 providing an effective date.

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