

Senate Bill 419

By: Senators Jones of the 10th, Jones of the 25th, Jackson of the 2nd, Parent of the 42nd,
Seay of the 34th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding torts, so as to provide for a presumption against liability for
3 certain businesses that are open to the general public; to provide for a definition; to provide
4 for criteria; to provide for exceptions; to provide for related matters; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
9 provisions regarding torts, is amended by adding a new Code section to read as follows:

10 "51-1-56.

11 (a) As used in this Code section, the term 'customer' means an individual who purchases
12 or undertakes the process of purchasing any product or service available for sale on the
13 premises of a business.

14 (b) The owner or operator of any business open to the general public having, owning, or
15 exercising control over the use of the premises or the business has a duty of care to prohibit
16 third-party criminal acts on such premises, and there shall be a rebuttable presumption of
17 liability against such owner or operator if, by a preponderance of the evidence, there is a
18 finding that a claimant was injured by a third-party criminal act on the premises, that such
19 criminal act was reasonably foreseeable, and that the owner or operator:

20 (1) Failed to:

21 (A) Provide a security camera system capable of recording and retrieving an image to
22 assist in offender identification and apprehension;

23 (B) Install a silent alarm to an alarm monitoring service with the capability to notify
24 local law enforcement or applicable 9-1-1 system upon triggering such silent alarm;

25 (C) Maintain a drop safe or cash management device for restricted access to cash
26 receipts;

27 (D) Maintain a lighted parking lot illuminated at an intensity of at least two
 28 foot-candles per square foot at 18 inches above the surface; or

29 (E) Otherwise maintain the property in a reasonably safe condition; or

30 (2) Has not established or implemented:

31 (A) If the business accepts cash from customers:

32 (i) A cash management policy to limit the cash on hand;

33 (ii) A conspicuous notice in an area regularly seen by customers which states that any
 34 cash register contains limited cash;

35 (iii) Window tinting that reduces exterior views into the building where such business
 36 is housed;

37 (iv) An unobstructed view of sale transaction areas from outside the building or from
 38 the customer entrance;

39 (v) Height markers at the customer entrance that display accurate height
 40 measurements from the floor and up to seven feet; and

41 (vi) If the business is open to the public between the hours of 11:00 P.M. and
 42 5:00 A.M. and a law enforcement agency has investigated a murder, robbery,
 43 kidnapping, rape, child molestation, aggravated sodomy, aggravated sexual battery,
 44 or any activity involving the discharge of a firearm on the premises of such business
 45 and arising out of the operation of such business within the previous two years:

46 (I) At least two employees on the premises at all times after 11:00 P.M. and
 47 before 5:00 A.M.;

48 (II) A guard on the premises who is certified pursuant to Chapter 8 of Title 35 or
 49 licensed pursuant to Chapter 38 of Title 43 at all times after 11:00 P.M. and
 50 before 5:00 A.M.; and

51 (III) Installation of an indirect pass-through trough, trapdoor, window, or a secured
 52 safety enclosure of transparent polycarbonate or other material for use by employees
 53 as the only means of interaction with customers after 11:00 P.M. and before
 54 5:00 A.M. that meets the following minimum standards of the American Society for
 55 Testing and Materials Standard D 3935, classification PC110 B 3 0800700, that has
 56 a thickness of at least 0.375 inches and an impact strength of at least
 57 200 foot-pounds or of the Underwriters Laboratories Standard UL 752 for
 58 medium-power small arms; and

59 (B) Except as provided for in subparagraph (A) of this paragraph, one or more
 60 restrooms provided during its business hours for use by customers that meet the
 61 following criteria, as determined by the last inspection conducted pursuant to paragraph
 62 (2) of subsection (c) of this Code section if such an inspection has occurred:

63 (i) Are available at no separate charge to customers;

- 64 (ii) Are not temporary or portable restroom facilities but are within a permanent
 65 structure, unless due to temporary circumstances requiring such temporary or portable
 66 restroom facilities;
- 67 (iii) Contain at least one toilet and sink;
- 68 (iv) Have stalls separating multiple toilet areas;
- 69 (v) Have a locking mechanism to be operated by the user on the entrance door to any
 70 such restroom or, if any such restroom has more than one toilet, on each stall door to
 71 each toilet;
- 72 (vi) Have a layout and are constructed as otherwise required by any local zoning
 73 ordinances; and
- 74 (vii) Are maintained in a clean and sanitary manner.
- 75 (c)(1) The commissioner of public health shall promulgate rules and regulations for the
 76 implementation of subparagraph (b)(2)(B) of this Code section.
- 77 (2) For an owner or operator of a business desiring the presumption provided for in this
 78 Code section, such owner or operator that is regulated under:
- 79 (A) Part 1 of Article 8 of Chapter 1 of Title 10 shall notify the Commissioner of
 80 Agriculture of such desire. The Commissioner of Agriculture shall provide for
 81 inspections of restrooms of such owner or operator for compliance with this Code
 82 section where such inspections may be conducted contemporaneously with any other
 83 inspection that is conducted by the Department of Agriculture. Such inspections shall
 84 occur at intervals established by the Commissioner of Agriculture, but at least once
 85 every calendar year; or
- 86 (B) Article 13 of Chapter 2 of Title 26 or that is not subject to subparagraph (A) of this
 87 paragraph shall notify the applicable county board of health of such desire. The county
 88 board of health shall provide for inspections of restrooms of such owner or operator for
 89 compliance with this Code section where such inspections may be conducted
 90 contemporaneously with any other inspection that is conducted by the county board of
 91 health. Such inspections shall occur at intervals established by the county board of
 92 health, but at least once every calendar year.
- 93 (d) A claim that a business failed to implement the measures provided for in this Code
 94 section shall not, in and of itself, act as an inference of liability upon such business."

95 **SECTION 2.**

96 All laws and parts of laws in conflict with this Act are repealed.