

By: Representatives White, Turner, Arnold,
Carpenter, Corley, Guice, Rushing, Bain,
Hopkins, Shirley, Shanks, Bell (21st),
Barnett, Ladner

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 337

1 AN ACT TO CREATE THE LANDOWNERS PROTECTION ACT; TO REGULATE
2 LIABILITY OF LANDOWNERS WHEN AN INVITEE IS INJURED ON THE
3 LANDOWNER'S PROPERTY; TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF
4 1972, TO REVISE THE DEFINITION OF "FAULT" REGARDING JOINT AND
5 SEVERAL LIABILITY; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** This act shall be known and may be cited as "The
8 Landowners Protection Act."

9 **SECTION 2.** (1) No person who owns, leases, operates,
10 maintains, or manages commercial or other real property in the
11 State of Mississippi and no director, officer, employee, agent or
12 independent contractor acting on behalf of any such person shall
13 be civilly liable to any invitee who is injured on said property
14 as the result of the acts of negligence or gross negligence or the
15 willful, wanton or intentional conduct of any third party who is
16 not a director, officer, employee or agent of the person who owns,
17 leases, operates, maintains or manages such commercial or other
18 real property unless the injured party can prove by a
19 preponderance of the evidence that:



20 (a) The conduct of said third party occurred on the
21 property;

22 (b) The conduct of the person who owns, leases,
23 operates, maintains or manages the property actively and
24 affirmatively, with a degree of conscious decision-making,
25 impelled the conduct of said third party; and

26 (c) The third party's conduct proximately caused the
27 economic and noneconomic damages suffered by the injured party.

28 (2) An atmosphere of violence shall only be established by
29 similar, violent conduct (a) which occurred within three (3) years
30 prior to the third party act at issue and resulted in a felony
31 conviction; and (b) takes place only on the commercial or other
32 real property where the acts of the third party occurred.

33 (3) Civil liability may not be based on the prior violent
34 nature of the third party whose acts or omissions proximately
35 caused the claimed injury or damage.

36 (4) If any provision of this act or its application to any
37 person or circumstance is held unconstitutional or otherwise
38 invalid, the remainder of the act or the application of the
39 provision to other persons or circumstances is not affected.

40 (5) Nothing in this act shall be construed to alter the
41 provisions of Section 97-3-15.

42 **SECTION 3.** Section 85-5-7, Mississippi Code of 1972, is
43 amended as follows:



44 85-5-7. (1) As used in this section, "fault" means an act
45 or omission of a person which is a proximate cause of injury or
46 death to another person or persons, damages to property, tangible
47 or intangible, or economic injury, including, but not limited to,
48 negligence, malpractice, strict liability, absolute liability or
49 failure to warn. "Fault" shall * * *~~not~~ include any tort which
50 results from an act or omission committed with a specific wrongful
51 intent.

52 (2) Except as otherwise provided in subsection (4) of this
53 section, in any civil action based on fault, the liability for
54 damages caused by two (2) or more persons shall be several only,
55 and not joint and several and a joint tort-feasor shall be liable
56 only for the amount of damages allocated to him in direct
57 proportion to his percentage of fault. In assessing percentages
58 of fault an employer and the employer's employee or a principal
59 and the principal's agent shall be considered as one (1) defendant
60 when the liability of such employer or principal has been caused
61 by the wrongful or negligent act or omission of the employee or
62 agent.

63 (3) Nothing in this section shall eliminate or diminish any
64 defenses or immunities which currently exist, except as expressly
65 noted herein.

66 (4) Joint and several liability shall be imposed on all who
67 consciously and deliberately pursue a common plan or design to
68 commit a tortious act, or actively take part in it. Any person



69 held jointly and severally liable under this section shall have a
70 right of contribution from his fellow defendants acting in
71 concert.

72 (5) In actions involving joint tort-feasors, the trier of
73 fact shall determine the percentage of fault for each party
74 alleged to be at fault without regard to whether the joint
75 tort-feasor is immune from damages. Fault allocated under this
76 subsection to an immune tort-feasor or a tort-feasor whose
77 liability is limited by law shall not be reallocated to any other
78 tort-feasor.

79 (6) Nothing in this section shall be construed to create a
80 cause of action. Nothing in this section shall be construed, in
81 any way, to alter the immunity of any person.

82 **SECTION 4.** This act shall take effect and be in force from
83 and after July 1, 2019.

