

7-22-58 (9)

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and passed

SS HCS HB 369 _____ entitled:

AN ACT

To repeal sections 270.170, 270.180, 270.260, 270.270, 270.400, 537.346, and 537.347, RSMo, and to enact in lieu thereof ten new sections relating to land management, with penalty provisions.

With SA 1

In which the concurrence of the House is respectfully requested.

Respectfully,

Adriane D. Crouse

Adriane D. Crouse
Secretary of the Senate

RECEIVED
MAY 11 1980
BY: _____

SENATE AMENDMENT NO. 1

Offered by

Philie Buntet

of

*6th*Amend SS/HCS/House Bill No. 369, Page 8, Section 270.400, Line 88,

2 by inserting after all of said line the following:

3 "316.250. 1. This section shall be known and may be
4 cited as "Ethan's Law".

5 2. Every owner of a for-profit private swimming pool
6 or facility shall maintain adequate insurance coverage in an
7 amount of not less than one million dollars per occurrence
8 for any liability incurred in the event of injury or death
9 of a patron to such swimming pool or facility, including any
10 liability incurred under paragraph [(b)] (a) of subdivision
11 (3) of section 537.348. Such owners shall be required to
12 register with the department of public safety and provide
13 proof of such insurance coverage at the time of registration
14 and when requested by any state or local governmental agency
15 responsible for the enforcement of this section.

16 3. As used in this section, the following terms shall
17 mean:

18 (1) "Owner", the owner of the land, including but not
19 limited to a lessee, tenant, mortgagee in possession and the
20 person in charge of the land on which a swimming pool is
21 located;

22 (2) "Swimming pool or facility", any for-profit
23 privately owned tank or body of water with a capacity of
24 less than five hundred patrons which charges a fee per
25 admission and is used and maintained for swimming or bathing
26 purposes which has a maximum depth of greater than twenty-

Offered 5/11/21

27 four inches. "Swimming pool or facility" shall include, but
28 not be limited to, a swimming pool on lands in connection
29 with the operation of any type of for-profit privately owned
30 amusement or recreational park. "Swimming pool or facility"
31 does not include a swimming pool or facility owned by a
32 hotel, motel, public or governmental body, agency, or
33 authority, a naturally occurring body of water or stream, or
34 a body of water established by a person or persons and used
35 for watering livestock, irrigation, or storm water
36 management.

37 4. Any owner who violates the provisions of this
38 section shall not be permitted to remain in operation until
39 such owner meets the requirements of this section. Any such
40 owner who allows operation of a swimming pool or facility in
41 violation of this section shall be subject to a civil
42 penalty of two hundred fifty dollars per day for each day of
43 continued violation up to a maximum of ten thousand dollars
44 and may be subject to liability for the costs incurred by
45 the state or a political subdivision for enforcing the
46 provisions of this section. In a separate court action, the
47 attorney general may seek reimbursement on behalf of the
48 state and a political subdivision may seek reimbursement on
49 behalf of the political subdivision for costs incurred as a
50 result of enforcing the provisions of this section. For
51 purposes of this section, "each day of the violation" means
52 each day that the swimming pool is operational and open for
53 business and remains in violation of this section. It shall
54 not include days that the swimming pool is not operational
55 and open for business.

56 5. In addition, any owner who intentionally violates
57 the provisions of this section is guilty of a class A
58 misdemeanor. It shall be the duty of each prosecuting
59 attorney and circuit attorney in their respective

60 jurisdictions to commence any criminal actions under this
61 section, and the attorney general shall have concurrent
62 original jurisdiction to commence such criminal actions
63 throughout the state where such violations have occurred.

64 6. The department of public safety shall implement
65 and, with the assistance of local law enforcement agencies,
66 enforce the provisions of this section.

67 7. An insurance company providing insurance coverage
68 under this section shall notify the department of public
69 safety if any owner of a swimming pool or facility as
70 defined in this section terminates, cancels, or fails to
71 renew such coverage. The department may utilize local law
72 enforcement agencies to enforce the provisions of this
73 section.

74 537.328. 1. As used in this section, the following
75 terms mean:

76 (1) "Camping", all aspects of visiting, staying at,
77 using, and leaving a private campground, including lodging
78 of all types;

79 (2) "Inherent risks of camping", those dangers,
80 hazards, or conditions that are an integral part of camping
81 including, but not limited to, the following:

82 (a) Features of the natural world, such as trees, tree
83 stumps, naturally occurring infectious agents, roots, brush,
84 rocks, mud, sand, standing and moving water, and soil;

85 (b) Uneven and unpredictable terrain;

86 (c) Natural bodies of water and accessories permitting
87 the use of natural bodies of water, including piers, docks,
88 swimming and aquatic sports, or recreation facilities or
89 areas;

90 (d) A lack of lighting, including lighting at
91 campsites;

- 92 (e) Campfires contained in or outside a fire pit or an
93 enclosure provided by the private campground, bonfires,
94 grass or brush fires, wildfires, and forest fires;
- 95 (f) Weather and weather-related events;
- 96 (g) Insects, birds, and other wildlife;
- 97 (h) Animals of other campers or visitors that cause
98 injury, unless the private campground owner or an employee
99 or officer of the private campground owner has accepted
100 responsibility for care of the animal;
- 101 (i) A violation of safety rules or a disregard for
102 signs or other methods of communicating warnings;
- 103 (j) Another camper or visitor at the private
104 campground acting in a negligent manner, if the private
105 campground owner or an employee or officer of the private
106 campground owner is not involved;
- 107 (k) Actions by a camper or visitor that exceed his or
108 her physical limitations or abilities;
- 109 (l) Actions by a camper or visitor involving climbing,
110 rappeling, caving, mountaineering, or any other related
111 activity;
- 112 (m) Damage caused by fireworks from a camper, visitor,
113 or offsite entity not authorized by the private campground
114 owner or employee or officer of a private campground owner;
115 and
- 116 (n) Any person coming onto the campsite not reported
117 to the private campground owner or an employee or officer of
118 the private campground owner;
- 119 (3) "Private campground", any parcel or tract of land,
120 including buildings and other structures, that is owned or
121 operated by a private property owner where five or more
122 campsites are made available for use as temporary living
123 quarters for recreational, camping, travel, or seasonal

124 use. The term "private campground" shall also include
125 recreational vehicle parks.

126 2. Except as provided in subsection 4 of this section,
127 a private campground owner or an employee or officer of a
128 private campground owner shall not be liable for acts or
129 omissions related to camping at a private campground if a
130 person is injured or killed or property is damaged as a
131 result of an inherent risk of camping.

132 3. This section shall not apply to any employer-
133 employee relationship governed by the provisions of chapter
134 287.

135 4. The provisions of subsection 2 of this section
136 shall not prevent or limit liability of a private campground
137 owner or an employee or officer of a private campground
138 owner who:

139 (1) Intentionally causes the injury, death, or
140 property damage;

141 (2) Acts with a willful or wanton disregard for the
142 safety of the person or property damaged. As used in this
143 subdivision, "willful and wanton" means conduct committed
144 with an intentional or reckless disregard for the safety of
145 others;

146 (3) Fails to use that degree of care that an
147 ordinarily careful and prudent person would use under the
148 same or similar circumstances; or

149 (4) Fails to conspicuously post warning signs of a
150 dangerous, inconspicuous condition known to the owner of the
151 private campground, or his or her employees or officers, on
152 the property that the owner owns, leases, rents, or is
153 otherwise in lawful control of or in possession of if the
154 owner, employee, or officer is aware of the condition by
155 reason of a prior injury involving the same location or the
156 same mechanism of injury. Such warning signs shall appear

157 in black letters on a white background with each letter to
 158 be a minimum of one inch in height.

159 5. Every written contract entered into by a private
 160 campground owner or an employee or officer of a private
 161 campground owner shall contain, in clearly readable print,
 162 the warning notice specified in this subsection. The signs
 163 described in subdivision (4) of subsection 4 of this section
 164 and contracts described in this subsection shall contain the
 165 following warning notice:

166 "WARNING

167 Under Missouri law, a private campground owner
 168 or an employee or officer of a private
 169 campground owner is not liable for an injury to
 170 or the death of a person or any property damage
 171 resulting from the inherent risks of camping
 172 under the Revised Statutes of Missouri.".; and

173 Further amend said bill, page 9, section 537.347, line
 174 20, by inserting after all of said line the following:

175 "537.348. Nothing in this act shall be construed to
 176 create liability, but it does not limit liability that
 177 otherwise would be incurred by those who use the land of
 178 others, or by owners of land for:

179 (1) Malicious or grossly negligent failure to guard or
 180 warn against a dangerous condition, structure, personal
 181 property which the owner knew or should have known to be
 182 dangerous, or negligent failure to guard or warn against an
 183 ultrahazardous condition which the owner knew or should have
 184 known to be dangerous;

185 (2) Injury suffered by a person who has paid a charge
 186 for entry to the land; or

187 (3) Injuries occurring on or in:

188 (a) [Any land within the corporate boundaries of any
 189 city, municipality, town, or village in this state;

190 (b)] Any swimming pool. "Swimming pool" means a pool
191 or tank, especially an artificial pool or tank, intended and
192 adapted for swimming and held out as a swimming pool;

193 [(c)] (b) Any residential area. "Residential area" as
194 used [herein] in this section means [a tract of land of one
195 acre or less predominately used for residential purposes, or
196 a tract of land of any size used for multifamily residential
197 services] land used for residential purposes in an area in
198 which housing predominates, as opposed to industrial and
199 commercial areas, and any land used for farming or
200 agricultural purposes; or

201 [(d)] (c) Any noncovered land. "Noncovered land" as
202 used [herein] in this section means any portion of any land,
203 the surface of which portion is actually used primarily for
204 commercial, industrial, mining or manufacturing purposes;
205 provided, however, that use of any portion of any land
206 primarily for agricultural, grazing, forestry, conservation,
207 natural area, owner's recreation or similar or related uses
208 or purposes shall not under any circumstances be deemed to
209 be use of such portion for commercial, industrial, mining or
210 manufacturing purposes."; and

211 Further amend the title and enacting clause accordingly.