



HOUSE BILL 405: Property Protection Act

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2015-2016 General Assembly

Committee:	House Judiciary II	Date:	April 21, 2015
Introduced by:	Reps. Szoka, Whitmire, Jordan, R. Moore	Prepared by:	Brad Krehely
Analysis of:	PCS to First Edition H405-CSRN-9		Committee Counsel

SUMMARY: *House Bill 405 would protect property owners from damages resulting from individuals acting in excess of the scope of permissible access and conduct granted to them. The Proposed Committee Substitute (PCS) clarifies that a person violates the act if he or she "intentionally" gains access to the non-public areas of the premises and clarifies that acts exceeding a person's authority to enter are limited to those items enumerated in the bill. The PCS makes other clarifying changes.*

[As introduced, this bill was identical to S433, as introduced by Sens. Rucho, Tucker, B. Jackson, which is currently in Rules and Operations of the Senate.]

BILL ANALYSIS: The PCS for House Bill 405 provides that any person who intentionally gains access to the nonpublic areas of another's premises and engages in an act that exceeds the person's authority to enter those areas is liable to the owner or operator of the premises for any damages sustained.

"Nonpublic areas" are those areas not accessible to or not intended to be accessed by the general public.

An act that exceeds a person's authority to enter "the nonpublic areas of another's premises" is any of the following:

- An employee who enters the nonpublic areas of an employer's premises for a reason other than a bona fide intent of seeking or holding employment or doing business with the employer and, without authorization, captures or removes the employer's data or any other documents for the purpose of using the information to breach the person's duty of loyalty to the employer.
- An employee who, without authorization, knowingly or intentionally creates or produces an image or sound occurring within an employer's premises and uses the recording to breach the person's duty of loyalty to the employer.
- Knowingly or intentionally placing on the employer's premises an unattended camera or electronic surveillance device and using that device to record images or data.
- Conspiring in organized retail theft.
- An act that substantially interferes with the ownership or possession of real property.

Any person who intentionally directs, assists, compensates, or induces another person to violate this section shall be jointly liable.

The following remedies are available to any party who prevails under these provisions:

- Equitable relief.
- Damages.

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- Costs and fees, including reasonable attorneys' fees.
- Exemplary damages in the amount of \$5,000 for each day, or portion thereof, that a defendant has acted in violation of this section.

These provisions do not diminish protections available to employees dealing with retaliatory discrimination and protections for reporting improper government activities. The provisions do not apply to government agencies or law enforcement officers engaged in a lawful investigation or the owner of the premises. Nothing in the section limits other remedies that are available at common law or conferred by statute.

EFFECTIVE DATE: The act becomes effective January 1, 2016.