

**SUBJECT:** Security measures at retail establishments

**COMMITTEE:** Business and Industry — committee substitute recommended

**VOTE:** 9 ayes — Brimer, Brady, Corte, Crabb, Eiland, Giddings, Janek, Rhodes, Solomons  
0 nays

**WITNESSES:** For — Marion Sanford, Gerald Hines Interest; Johnnie B. Rogers, Coalition of Convenience Stores  
Against — None

**DIGEST:** CSHB 2464 would provide the owners or operators of large multi-level shopping malls or convenience stores an affirmative defense to certain claims for failure to provide adequate security if such owners or operators follow the security procedures outlined in the bill. The affirmative defense would not apply to product liability claims and claims brought by employees under the Texas Workers Compensation Act.

To qualify for an affirmative defense the owner or operator of a multi-level shopping center would have to establish and substantially implement a security plan that includes, during security hours:

- one peace officer on duty, one security officer for each 600,000 square feet of gross leasable area;
- one security officer for each 1,000 parking spaces that are contained in the shopping center's parking facilities;
- one security vehicle patrolling during security hours for each 2,500 parking spaces that are contained in the parking facilities;
- a communications system in effect 24 hours a day, 7 days a week and
- security escorts available during security hours and as necessary when requested in advance by a tenant to provide security escorts to employees of the shopping center who are working after security hours.

As part of the security plan, shopping center owners or operators would have to distribute to their tenants and post for their customers a security

advisory newsletter to communicate safety and security advice. The mall owner or operator would file a copy of the security plan with the city police chief and county sheriff with jurisdiction over the area in which the mall is located. A filing of the plan would be proof of the establishment of the plan under this chapter.

To qualify for an affirmative defense employers of personnel at a convenience store would have to instruct their employees about and implement security measures that include providing:

- video surveillance equipment that is maintained in working order and operated continuously during the hours of operation of the store;
- a sign, with lettering at least three-fourths inch in height, posted in the stores window stating that the cash register contains less than \$75;
- a drop-safe or time-release safe maintained at the store that is bolted to the floor, is installed in the floor, or weighs 350 pounds or more;
- a sign, with lettering at least three-fourths inch in height, posted in the store's window stating that there is a safe in the store and that the safe is not accessible to the store's employees or, if store employees have access to a time-release safe, that employees have access to a limited amount of cash only at time-delayed intervals;
- interior and exterior lighting in each area of the premises that is intended for customer access and controlled by the employer, with an illumination intensity maintained at least two foot-candles for each square foot at 36 inches about the surface of the lighted area and
- markers at the entrance of the store that can indicate the height of a person entering the store.

The employer would conduct business in the convenience store in a manner that provides full visibility from the street of the clerk or and customer during a sales transaction at the cash register or checkout counter and shall maintain a video surveillance recording until at least the 30th day after the date of the recording of an event unless, before that date, the recording is taken by a law enforcement agent in connection with a criminal investigation.

A convenience store employer who elected to comply with the prescribed security measures would instruct the convenience store employees in security techniques approved by the Department of Public Safety. The employer could apply to the department for an evaluation of the employer's training program. The department could assess a fee for the evaluation of \$25. The employer would be required to post a sign at the convenience store that indicates that the store's employees are instructed and trained in security techniques.

The effective date of this bill for convenience stores would be September 1, 1995, and January 1, 1996, for multi-level shopping centers.

**SUPPORTERS  
SAY:**

Because of their relatively contained environment, large multi-level shopping malls and convenience stores can greatly reduce the incidence of criminal activity and the risk of injury to patrons if the owners and operators of such establishments apply rigorous security measures.

CSHB 2464 would encourage owners and operators to pay for state-of-the-art security measures by providing them with an affirmative defense to certain claims for damages caused by the criminal acts of third parties at their establishments.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The committee substitute added new definitions for convenience store, department, mall hours, mall store, peace officer, security hours and security officer. It adds new convenience store safety measures and devices, a new convenience store training program, a new affirmative defense for convenience stores, and new restrictions on the application of an affirmative defense. The substitute adds an effective date for this bill to apply to convenience stores and changes the effective date for multi-level shopping malls from January 1, 1996 to September 1, 1995.