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HOUSE BILL NO. 1976

Offered January 10, 2007

Prefiled January 5, 2007

A BILL to amend and reenact § 35.1-28 of the Code of Virginia, relating to hotel liability in personal injury claims based on the intentional conduct of another.

Patron—Fralin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 35.1-28 of the Code of Virginia is amended and reenacted as follows:

§ 35.1-28. Liability.

A. It shall be the duty of any person owning or operating a hotel to exercise due care and diligence in providing honest and competent employees and to take reasonable precautions to protect the persons and property of the guests of the hotel. No hotel shall be held liable in a sum greater than \$300 for the loss of any wearing apparel, baggage, or other property not hereinafter mentioned belonging to a guest when such loss takes place from the room or rooms occupied by the guest. Unless the loss shall take place from the office of the hotel after the valuables are deposited there, no hotel shall be liable for any loss by any guest of jewelry, money, or other valuables of like nature belonging to any guest if the hotel shall have posted in the room or rooms of the guest in a conspicuous place, and in the office of the hotel, a notice stating that jewelry, money, and other valuables of like nature must be deposited in the office of the hotel. The hotel shall not be obligated to receive from any one guest for deposit in such office any property hereinbefore described exceeding a total value of \$500.

B. Each guest's room shall have suitable locks on its doors and windows unless permanently secured. If a guest fails to lock the doors or windows of his room, the hotel shall not be liable for any property taken from the room in consequence of such failure on the part of the guest. The burden of proof shall be upon the operator of the hotel to show that he complied with the provisions of this section and that the guest failed to comply with these requirements.

C. In the case of loss by fire or overwhelming disaster, a hotel shall exercise ordinary and reasonable care in the custody of the baggage or other property of its guests, but in no case shall the hotel's liability exceed \$250 to any one guest unless the negligence of the hotel was the cause of the fire or overwhelming disaster.

D. No liability shall attach to any hotel for the baggage, hats, umbrellas, coats, or other wearing apparel of a guest until the same is placed by the guest in the actual custody of an employee of the hotel. The mere depositing of such baggage, hats, umbrellas, coats, or other wearing apparel inside the hotel shall not be construed as putting in actual custody until taken in charge by the hotel or its employee, or properly placed in a room or rooms assigned to the guest.

E. Nothing contained in this section shall be construed so as to change or alter the principles of law concerning a hotel's liability to a guest or other person for personal injury, nor to exempt in anywise any way the owner or operator of a hotel from being liable for the value of any property of guests taken or stolen from any room therein by any employee or agent of the hotel. *Any personal injury claim brought by a guest or invitee against a hotel arising out of the intentional conduct of another shall be determined by the fact finder based on the same common law standard that is applied to any other business for such intentional conduct.*

F. A notice of the provisions of this section shall be posted conspicuously in each guest's room.

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