

§ 16-118-113. Civil cause of action for unauthorized access to..., AR ST § 16-118-113

West's Arkansas Code Annotated
Title 16. Practice, Procedure, and Courts (Refs & Annos)
Subtitle 7. Particular Proceedings and Remedies (Chapters 105 to 128)
Chapter 118. Miscellaneous Actions

A.C.A. § 16-118-113

§ 16-118-113. Civil cause of action for unauthorized access to property

Effective: August 1, 2017
Currentness

(a) As used in this section:

(1) "Commercial property" means:

(A) A business property;

(B) Agricultural or timber production operations, including buildings and all outdoor areas that are not open to the public;
and

(C) Residential property used for business purposes; and

(2) "Nonpublic area" means an area not accessible to or not intended to be accessed by the general public.



(b) A person who knowingly gains access to a nonpublic area of a commercial property and engages in an act that exceeds the person's authority to enter the nonpublic area is liable to the owner or operator of the commercial property for any damages sustained by the owner or operator.

(c) An act that exceeds a person's authority to enter a nonpublic area of commercial property includes an employee who knowingly enters a nonpublic area of commercial property for a reason other than a bona fide intent of seeking or holding employment or doing business with the employer and without authorization subsequently:

(1) Captures or removes the employer's data, paper, records, or any other documents and uses the information contained on or in the employer's data, paper, records, or any other documents in a manner that damages the employer;

(2) Records images or sound occurring within an employer's commercial property and uses the recording in a manner that damages the employer;

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- (3) Places on the commercial property an unattended camera or electronic surveillance device and uses the unattended camera or electronic surveillance device to record images or data for an unlawful purpose; 
- (4) Conspires in an organized theft of items belonging to the employer; or
- (5) Commits an act that substantially interferes with the ownership or possession of the commercial property.
- (d) A person who knowingly directs or assists another person to violate this section is jointly liable.
- (e) A court may award to a prevailing party in an action brought under this section one (1) or more of the following remedies:
- (1) Equitable relief;
- (2) Compensatory damages;
- (3) Costs and fees, including reasonable attorney's fees; and
- (4) In a case where compensatory damages cannot be quantified, a court may award additional damages as otherwise allowed by state or federal law in an amount not to exceed five thousand dollars (\$5,000) for each day, or a portion of a day, that a defendant has acted in violation of subsection (b) of this section, and that in the court's discretion are commensurate with the harm caused to the plaintiff by the defendant's conduct in violation of this section.
- (f) This section does not:
- (1) Diminish the protections provided to employees under state or federal law; or 
- (2) Limit any other remedy available at common law or provided by law.
- (g) This section does not apply to a state agency, a state-funded institution of higher education, a law enforcement officer engaged in a lawful investigation of commercial property or of the owner or operator of the commercial property, or a healthcare provider or medical services provider.

Credits

Acts of 2017, Act 606, § 1, eff. Aug. 1, 2017.

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Notes of Decisions (2)

A.C.A. § 16-118-113, AR ST § 16-118-113

The constitution and statutes are current through the 2022 Third Extraordinary Session of the 93rd Arkansas General Assembly. Some statute sections may be more current; see credits for details. Also included are changes made by the Arkansas Code Revision Commission received through October 25, 2022.

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