

By the Council for Smarter Government and Representatives
Simmons and Kendrick

1 A bill to be entitled
2 An act relating to burden of proof in
3 negligence actions involving transitory foreign
4 objects or substances; creating s. 768.0710,
5 F.S.; providing requirements with respect to
6 the burden of proof in claims against persons
7 or entities in possession or control of
8 business premises; providing for the
9 application of the act; providing an effective
10 date.

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12 WHEREAS, on November 15, 2001, the Florida Supreme
13 Court decided the case of Owens v. Publix Supermarket, Inc.,
14 Case No. SC95667 & SC96235, and

15 WHEREAS, the Florida Legislature has considered the
16 issues raised and law surveyed in the Owens case when
17 balancing rights and duties between possessors of land and
18 invitees upon that land, NOW, THEREFORE,

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 768.0710, Florida Statutes, is
23 created to read:

24 768.0710 Burden of proof in claims of negligence
25 involving transitory foreign objects or substances against
26 persons or entities in possession or control of business
27 premises.--

28 (1) The person or entity in possession or control of
29 business premises owes a duty of reasonable care to maintain
30 the premises in a reasonably safe condition for the safety of
31 business invitees on the premises, which includes reasonable

1 efforts to keep the premises free from transitory foreign
2 objects or substances that might foreseeably give rise to loss,
3 injury, or damage.

4 (2) In any civil action for negligence involving loss,
5 injury, or damage to a business invitee as a result of a
6 transitory foreign object or substance on business premises,
7 the claimant shall have the burden of proving that:

8 (a) The person or entity in possession or control of
9 the business premises owed a duty to the claimant;

10 (b) The person or entity in possession or control of
11 the business premises acted negligently by failing to exercise
12 reasonable care in the maintenance, inspection, repair,
13 warning, or mode of operation of the business premises. Actual
14 or constructive notice of the transitory foreign object or
15 substance is not a required element of proof to this claim.
16 However, evidence of notice or lack of notice offered by any
17 party may be considered together with all of the evidence; and

18 (c) The failure to exercise reasonable care was a
19 legal cause of the loss, injury, or damage.

20 Section 2. This act shall take effect upon becoming a
21 law and shall apply to all causes of action pending on or
22 after that date.

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