

Amendment No. ____ (for drafter's use only)

| | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Representative(s) Simmons offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

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

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

(1) The person or entity in possession or control of business premises owes a duty of reasonable care to maintain the premises in a reasonably safe condition for the safety of business invitees on the premises, which includes reasonable efforts to keep the premises free from transitory foreign objects or substances that might foreseeably give rise to loss, injury, or damage.

(2) In any civil action for negligence involving loss, injury, or damage to a business invitee as a result of a

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1 transitory foreign object or substance on business premises,
2 the claimant shall have the burden of proving that:

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

5 (b) The person or entity in possession or control of
6 the business premises acted negligently by failing to exercise
7 reasonable care in the maintenance, inspection, repair,
8 warning, or mode of operation of the business premises. Actual
9 or constructive notice of the transitory foreign object or
10 substance is not a required element of proof to this claim.

11 However, evidence of notice or lack of notice offered by any
12 party may be considered together with all of the evidence; and

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

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

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20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 remove: the entire title

23

24 and insert:

25 A bill to be entitled
26 An act relating to burden of proof in
27 negligence actions involving transitory foreign
28 objects or substances; creating s. 768.0710,
29 F.S.; providing requirements with respect to
30 the burden of proof in claims against persons
31 or entities in possession or control of

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1 business premises; providing for the
2 application of the act; providing an effective
3 date.
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5 WHEREAS, on November 15, 2001, the Florida Supreme
6 Court decided the case of Owens v. Publix Supermarket, Inc.,
7 Case No. SC95667 & SC96235, and

8 WHEREAS, the Florida Legislature has considered the
9 issues raised and law surveyed in the Owens case when
10 balancing rights and duties between possessors of land and
11 invitees upon that land, NOW, THEREFORE,
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