

1 A bill to be entitled

2 An act relating to negligence; creating s. 768.0755, F.S.;
3 providing that a person seeking damages for a slip and
4 fall on a transitory foreign substance in a commercial
5 establishment must prove that the commercial establishment
6 had actual knowledge of the condition or constructive
7 knowledge of the condition; defining "constructive
8 knowledge"; providing that constructive knowledge may be
9 proven by circumstantial evidence; amending s. 768.81,
10 F.S.; redefining the term "negligence cases" as it relates
11 to comparative fault to include claims for negligent
12 security in which the defendant is sued for failing to
13 prevent the commission of an intentional tort; providing
14 that the apportionment of damages does not apply to any
15 action in which an intentional tortfeasor is sued and
16 seeks to apportion fault to a negligent tortfeasor;
17 repealing s. 768.0710, F.S., relating to the duty to
18 maintain premises in a reasonably safe condition for the
19 safety of business invitees; reenacting s. 25.077, F.S.,
20 relating to the duty of the clerk of court to report
21 certain information concerning negligence cases, to
22 incorporate the amendment made to s. 768.81, F.S., in a
23 reference thereto; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 768.0775, Florida Statutes, is created
28 to read:

29 768.0775 Premises liability for transitory foreign
 30 substances in a commercial establishment.--If a person slips and
 31 falls on a transitory foreign substance in a commercial
 32 establishment, the injured person must prove that the commercial
 33 establishment had actual knowledge of the dangerous condition or
 34 had constructive knowledge of the dangerous condition in that
 35 the condition existed for a sufficient length of time that, in
 36 the exercise of ordinary care, the commercial establishment
 37 should have known of the dangerous condition and taken action to
 38 remedy it. Constructive knowledge may be proven by
 39 circumstantial evidence showing that:

40 (1) The dangerous condition existed for such a length of
 41 time that in the exercise of ordinary care, the commercial
 42 establishment should have known of the condition; or

43 (2) The condition occurred with regularity and was
 44 therefore foreseeable.

45 Section 2. Subsection (4) of section 768.81, Florida
 46 Statutes, is amended to read:

47 768.81 Comparative fault.--

48 (4) APPLICABILITY.--

49 (a) This section applies to negligence cases. For purposes
 50 of this section, the term "negligence cases" includes, but is
 51 not limited to, civil actions for damages based upon theories of
 52 negligence, including negligent security resulting in the
 53 commission of an intentional tort or criminal act; strict
 54 liability;i products liability;i professional malpractice
 55 whether couched in terms of contract or tort;i or breach of
 56 warranty and like theories. In determining whether a case falls

57 | within the term "negligence cases," the court shall look to the
58 | substance of the action and not the conclusory terms used by the
59 | parties.

60 | (b) This section does not apply to any action brought by
61 | any person to recover actual economic damages resulting from
62 | pollution, to any action in which an intentional tortfeasor
63 | seeks to apportion fault to a negligent tortfeasor ~~based upon an~~
64 | ~~intentional tort~~, or to any cause of action as to which
65 | application of the doctrine of joint and several liability is
66 | specifically provided by chapter 403, chapter 498, chapter 517,
67 | chapter 542, or chapter 895.

68 | Section 3. Section 768.0710, Florida Statutes, is
69 | repealed.

70 | Section 4. For the purpose of incorporating the amendment
71 | to section 768.81, Florida Statutes, in a reference thereto,
72 | section 25.077, Florida Statutes, is reenacted to read:

73 | 25.077 Negligence case settlements and jury verdicts; case
74 | reporting.--Through the state's uniform case reporting system,
75 | the clerk of court shall report to the Office of the State
76 | Courts Administrator, beginning in 2003, information from each
77 | settlement or jury verdict and final judgment in negligence
78 | cases as defined in s. 768.81(4), as the President of the Senate
79 | and the Speaker of the House of Representatives deem necessary
80 | from time to time. The information shall include, but need not
81 | be limited to: the name of each plaintiff and defendant; the
82 | verdict; the percentage of fault of each; the amount of economic
83 | damages and noneconomic damages awarded to each plaintiff,
84 | identifying those damages that are to be paid jointly and

HB 1931, Engrossed 1

2005

85 | severally and by which defendants; and the amount of any
86 | punitive damages to be paid by each defendant.

87 | Section 5. This act shall take effect July 1, 2005.