



548706

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/18/2010	.	
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The Committee on Judiciary (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 768.0755, Florida Statutes, is created
to read:

768.0755 Premises liability for transitory foreign
substances in a business establishment.-

(1) If a person slips and falls on a transitory foreign
substance in a business establishment, the injured person must
prove that the business establishment had actual or constructive
knowledge of the dangerous condition and should have taken
action to remedy it. Constructive knowledge may be proven by



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14 circumstantial evidence showing that:

15 (a) The dangerous condition existed for such a length of
16 time that, in the exercise of ordinary care, the business
17 establishment should have known of the condition; or

18 (b) The condition occurred with regularity and was
19 therefore foreseeable.

20 (2) If a business establishment has actual knowledge of an
21 incident in which a person has slipped and fallen on a
22 transitory foreign substance in the business establishment, the
23 business establishment must preserve and maintain, for at least
24 6 months after the date of the incident, any existing evidence
25 and documentation of the incident, including the condition of
26 the premises at the time of the incident. If the business
27 establishment fails to produce to a claimant, in any civil
28 action seeking damages arising from the incident involving a
29 transitory foreign substance, the documentation and evidence
30 required to be preserved and maintained under this subsection,
31 the jury shall be instructed that it may infer that the
32 documentation and evidence not preserved and maintained
33 demonstrated that the business establishment did not maintain
34 the premises in a reasonably safe condition. This subsection
35 does not create any obligation to generate records or evidence
36 not already in existence as a part of the business
37 establishment's ordinary business practices.

38 (3) This section does not affect any common-law duty of
39 care owed by a person or entity in possession or control of a
40 business premises.

41 Section 2. Section 768.0710, Florida Statutes, is repealed.

42 Section 3. This act shall take effect July 1, 2010.



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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to negligence; creating s. 768.0755,
F.S.; providing that if a person slips and falls on a
transitory foreign substance in a business
establishment, the injured person must prove that the
business establishment had actual or constructive
knowledge of the condition and should have taken
action to remedy it; providing that constructive
knowledge may be proven by circumstantial evidence;
requiring business establishments with actual
knowledge of an incident to maintain evidence and
documentation of the incident for one year; providing
an adverse inference that a business establishment
failed to keep the premises in a reasonably safe
condition if the business establishment failed to
maintain the required documentation and evidence;
specifying that the provisions do not affect any
common-law duty of care owed by a person or entity in
possession or control of a business premises;
repealing s. 768.0710, F.S., relating to the duty to
maintain premises and the burden of proof in claims of
negligence involving transitory foreign objects or
substances; providing an effective date.