

By the Committee on Judiciary; and Senator Gardiner

590-03234-10

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1                   A bill to be entitled  
2           An act relating to negligence; creating s. 768.0755,  
3           F.S.; providing that if a person slips and falls on a  
4           transitory foreign substance in a business  
5           establishment, the injured person must prove that the  
6           business establishment had actual or constructive  
7           knowledge of the condition and should have taken  
8           action to remedy it; providing that constructive  
9           knowledge may be proven by circumstantial evidence;  
10          specifying that the provisions do not affect any  
11          common-law duty of care owed by a person or entity in  
12          possession or control of a business premises;  
13          repealing s. 768.0710, F.S., relating to the duty to  
14          maintain premises and the burden of proof in claims of  
15          negligence involving transitory foreign objects or  
16          substances; providing an effective date.

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

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

22           768.0755 Premises liability for transitory foreign  
23 substances in a business establishment.—

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

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

33       (b) The condition occurred with regularity and was  
34 therefore foreseeable.

35       (2) This section does not affect any common-law duty of  
36 care owed by a person or entity in possession or control of a  
37 business premises.

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 Section 768.0710, Florida Statutes, is repealed.

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