

Senate Bill No. 1946

An act relating to burden of proof in negligence actions involving transitory foreign objects or substances; creating s. 768.0710, F.S.; providing requirements with respect to the burden of proof in claims against persons or entities in possession or control of business premises; providing for the application of the act; providing an effective date.

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

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

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

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

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

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

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

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

Approved by the Governor May 30, 2002.

Filed in Office Secretary of State May 30, 2002.