

Legislative Analysis



BOWLING ALLEYS: PROVIDE IMMUNITY IN SLIP & FALL SUITS

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Senate Bill 281 (Substitute S-1)

Sponsor: Sen. Joe Hune

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 9-21-11

A SUMMARY OF SENATE BILL 281 AS PASSED BY THE SENATE 6-8-11

The bill would provide, under certain circumstances, immunity to a bowling center from a civil action arising from a slip and fall that occurred after a patron had worn the bowling shoes outside.

[Note: According to information from the Senate Fiscal Agency, the proposed amendment arises because bowlers now must leave and re-enter bowling centers if they want to smoke, although the bill is not restricted to such cases.]

Senate Bill 281 would create the Bowling Center Act. Under the new act, an operator of a bowling center would not be civilly liable for injuries to a bowler resulting from a slip, trip, stumble, or fall inside the bowling center that is "substantially" caused by a substance or material on the bowler's bowling shoes that had been acquired outside the bowling center before the bowler entered or reentered the center. The bill would apply only to a cause of action accruing on or after January 1, 2012.

The immunity would attach only if the operator of a bowling center posted a notice as specified in the bill in a conspicuous place near each entrance and exit warning bowlers about the dangers of slips and falls on floors or alleys associated with wearing bowling shoes outside. Further, the protection from liability would not apply if the liability of the operator had resulted from willful or wanton misconduct or if the operator had failed to maintain the premises in a reasonably safe condition and the condition substantially caused the injury to the bowler.

The bill would also define the terms "bowler," "bowling center," and "operator." "Bowling shoes" would mean shoes that were specifically designed for the purpose of recreational or competitive bowling.

FISCAL IMPACT:

Senate Bill 281 (S-1) would not have a significant fiscal impact on the state resulting from the statutory limitation on "slip and fall" liability for operators of bowling centers if bowling shoes are substantially involved. If SB 281 (S-1) is enacted, lawsuits related to this former liability will decrease, and thus reduce caseloads in proportion to how many

of these suits are typically filed. However, these lawsuits would not necessarily be entirely eliminated. If a lawsuit is filed, the courts would still have to judge whether bowling shoes were substantially involved in the "slip and fall." The court costs and caseload related to the lawsuits filed will remain, irrespective of the "substantial" liability judgment.

Under current state common law, a "slip and fall" is a type of premises liability tort (a tort is a breach of civil duty owed). Persons who are entering a premise for the mutual benefit of themselves and the owner or occupant (i.e. commercial purposes) are considered "invitees" and are owed the highest duty under premises liability law. There is a large body of case law pertaining to premises liability torts and various guidelines regarding "possession and control," "actual knowledge or constructive notice," and "open and obvious condition."

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