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BILL ANALYSIS

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Senate Bill 281 (as reported without amendment)  
Sponsor: Senator Joe Hune  
Committee: Judiciary

Date Completed: 5-9-11

### **RATIONALE**

Since May 1, 2010, Michigan law has prohibited smoking in workplaces, including bars, restaurants, and recreation and entertainment venues. Consequently, bowling center patrons, like restaurant and bar guests, must go outside if they wish to smoke. This poses a unique problem for bowling centers, however, because of the need for specialized footwear to participate in bowling. If bowlers go outside to smoke while wearing bowling shoes, they might track debris and moisture back into the building, which can cause hazardous footing conditions and might lead to slip-and-fall injuries. As a result, bowling proprietors are concerned that their exposure to liability for injuries occurring on the premises will be increased. It has been suggested that immunity from liability for injuries caused by substances tracked in on bowling shoes should be granted to bowling proprietors who post a notice about the dangers associated with wearing bowling shoes outside.

### **CONTENT**

**The bill would create the "Bowling Center Act" to require a bowling center operator to post a specific notice about the danger of wearing bowling shoes outside, and provide the operator with immunity from civil liability for injuries to a bowler due to a slip and fall inside the bowling center that resulted from outside use of bowling shoes.**

Specifically, the bill would require a bowling center operator to post a notice in a conspicuous place near each entrance to and

exit from a bowling center. The notice would have to read:

"Bowling shoes are specialized footwear and are not intended to be worn outside a bowling center because the bowling shoes may be affected by substances or materials such as snow, ice, rain, moisture, food, or debris. Such substances or materials on bowling shoes that have been worn outside a bowling center may cause the person wearing the bowling shoes to slip, trip, stumble, or fall on the floor or alley surfaces in the bowling center."

If an operator posted the required notice, the operator would not be civilly liable for injuries to a bowler resulting from a slip, trip, stumble, or fall inside the bowling center solely caused by a substance or material on the bowler's bowling shoes that was acquired outside the bowling center immediately before the bowler entered or re-entered the bowling center.

This protection from liability would not apply if the operator's liability resulted from willful or wanton misconduct.

The bill would apply only to a cause of action that accrued on or after January 1, 2012.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

With the implementation of Michigan's indoor smoke-free air law, bowling proprietors across the State are concerned about their exposure to liability for slip-and-fall injuries on their premises. While bowling shoes are never intended to be worn outside, there is an increased possibility that bowling patrons may do just that since they are now required to leave the building if they want to smoke. When snow, dirt, or other debris is carried into a bowling center on bowling shoes improperly worn outdoors, it can lead to an increased risk of injury to bowlers inside the building. Bowling center owners and operators should be protected from liability for such injuries. The bill would provide an appropriate level of immunity, by excusing bowling proprietors from liability for injuries caused by bowlers who wore their bowling shoes outside, if the bowling center operator posted a specific notice warning customers not to do so.

**Response:** The proposed immunity provision could be too restrictive. Under the bill, an operator who posted the required notice would not be civilly liable for injuries "solely caused by a substance or material on the bowler's bowling shoes that was acquired outside". Taken literally, that can only mean that there was no other contributing factor to or possible cause of the injury. Bowling proprietors could find themselves ineligible for the immunity proffered by the bill if a person could show even a minor contributing factor to or other possible cause of the injury, such as something spilled or left on the floor that came from inside the building.

In addition, a bowling center defendant in an injury claim might not be able to invoke the bill's immunity protection because of the difficulty of demonstrating that the substance on a bowler's shoe that led to the injury came from outside. Unless the shoes were preserved as evidence, the defendant might not be able to prove that the substance on them came from outside.

On the other hand, if the immunity protection were applied broadly, it might offer a bowling center operator too much protection from liability. The bill's immunity provision could end up protecting bowling proprietors from liability for injuries caused by a beer spill or water on the bathroom floor, for instance, if the person who slipped on a spill had just come in from outdoors.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill could have a negligible impact on the court system if it resulted in fewer lawsuits.

Fiscal Analyst: Matthew Grabowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.