

SENATE BILL No. 1017

May 17, 2018, Introduced by Senators MACGREGOR, JONES, SHIRKEY, SCHUITMAKER and EMMONS and referred to the Committee on Judiciary.

A bill to codify the liability of possessors of real property for injuries to invitees and licensees.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "premises liability act".

3 Sec. 2. As used in this act:

4 (a) "Invitee" means an individual who is invited, expressly or
5 impliedly, to enter or remain on premises for a commercial benefit
6 to the possessor of the premises or for a purpose directly or
7 indirectly connected with business dealings with the possessor.

8 (b) "Licensee" means an individual who enters or remains on
9 premises for any purpose other than a business or commercial
10 purpose with the express or implied permission of the possessor of

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1 the premises. Licensee includes, but is not limited to, a social
2 guest of the possessor.

3 (c) "Open and obvious" means the condition is known to the
4 invitee or licensee or the condition would have been discovered by
5 a reasonably careful person on casual inspection.

6 (d) "Owner" means a person that holds legal or equitable title
7 to premises.

8 (e) "Person" means an individual, partnership, corporation,
9 association, or other legal entity.

10 (f) "Possessor" <<, subject to subdivision (g), >> means any of the
11 following:

12 (i) A person that is in occupation of the premises with intent
13 to control it.

14 (ii) A person that has been in occupation of the premises with
15 intent to control it, if no other person has subsequently occupied
16 the premises with intent to control it.

17 (iii) A person that is entitled to immediate occupation of the
18 premises, if no other person is a possessor as described in
19 subparagraphs (i) and (ii).

<<(g) Possessor does not include a person that is licensed under
20 article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to
21 339.2518, acting in connection with the sale or lease of the premises.>>

22 <<(h) >> "Premises" means real property.

23 <<(i) >> "Trespasser" means an individual who goes on the
24 premises

25 of another without the express or implied permission or invitation
26 of the possessor, for the individual's own purposes, and not in the
27 performance of any duty to the possessor.

Sec. 3. Subject to section 5, a possessor has a duty to use
ordinary care to protect an invitee from risks of harm from a
condition on the possessor's premises if both of the following
apply:

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1 (a) The risk of harm is unreasonable.

2 (b) The possessor knows or, in the exercise of ordinary care
3 considering the character of the condition and the length of time
4 that the condition has existed, should know of the condition and
5 should realize that the condition involves an unreasonable risk of
6 harm to an invitee.

7 Sec. 4. Subject to section 5, a possessor of land is only
8 liable for physical harm caused to a licensee by a condition on the
9 premises if all of the following apply:

10 (a) The possessor knew or should have known of the condition
11 and should have realized that it involved an unreasonable risk of
12 harm to the licensee, and should have expected that the licensee
13 would not discover or realize the danger.

14 (b) The possessor failed to warn the licensee of the danger.

15 (c) The licensee did not know or have reason to know of the
16 danger.

17 Sec. 5. A possessor<< or owner>> owes no duty to protect an invitee
18 or
licensee from, or warn an invitee or licensee of, risks of harm
19 from an open and obvious condition on the possessor's<< or owner's>>
premises,
20 unless there are special features that make the condition
21 effectively unavoidable or create an unreasonably high risk of
22 severe harm.

23 Sec. 6. This act does not affect or impair any defense that
24 may be available to the owner or possessor of premises under any
25 other law.

26 Sec. 7. This act does not create a duty of care to a
27 trespasser. This act does not create a duty of care of an owner

1 that is not also a possessor of the premises.

2 Sec. 8. This act does not impair comparative fault under
3 sections 2955a or 2959 of the revised judicature act of 1961, 1961
4 PA 236, MCL 600.2955a and 600.2959, or under other law of this
5 state.

6 Enacting section 1. This act takes effect 90 days after the
7 date it is enacted into law.