

# 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

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" means any of the following:

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

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

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

19 (g) "Premises" means real property.

20 (h) "Trespasser" means an individual who goes on the premises  
21 of another without the express or implied permission or invitation  
22 of the possessor, for the individual's own purposes, and not in the  
23 performance of any duty to the possessor.

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

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 owes no duty to protect an invitee or  
18 licensee from, or warn an invitee or licensee of, risks of harm  
19 from an open and obvious condition on the possessor'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.