



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2438

Introduced 2/17/2015, by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

740 ILCS 130/2
740 ILCS 130/3

from Ch. 80, par. 302
from Ch. 80, par. 303

Reenacts and changes provisions of the Premises Liability Act that were added by Public Act 89-7, which was held to be void in its entirety by the Illinois Supreme Court in *Best v. Taylor Machine Works*. Includes findings. The reenacted provisions describe the duty of reasonable care owed to invited entrants by an owner or occupier of premises, and provide that an owner or occupier of land owes no duty of care to an adult trespasser other than to refrain from willful and wanton conduct that would endanger the safety of a known trespasser from a condition of the property or an activity conducted on the property. Provides that the reenacted provisions apply to causes of action accruing on or after the effective date of reenactment.

LRB099 03802 HEP 23815 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Findings; purpose; base text.

5 (a) The General Assembly finds and declares that:

6 (1) "An Act to amend certain Acts in relation to civil
7 actions, which may be referred to as the Civil Justice
8 Reform Amendments of 1995", Public Act 89-7, approved March
9 9, 1995, amended Sections 2 and 3 of the Premises Liability
10 Act. Public Act 89-7 also contained other provisions.

11 (2) In *Best v. Taylor Machine Works*, 179 Ill. 2d 367
12 (1997), the Illinois Supreme Court held that Public Act
13 89-7 was void in its entirety.

14 (3) The provisions of Public Act 89-7 that amended
15 Sections 2 and 3 of the Premises Liability Act are of vital
16 concern to the people of this State, and legislative action
17 concerning these provisions is necessary.

18 (b) It is the purpose of this Act to reenact the provisions
19 of Public Act 89-7 that amended Sections 2 and 3 of the
20 Premises Liability Act. This Act is not intended to supersede
21 any changes made to these Sections by another Public Act. The
22 reenacted material is shown as existing text; striking and
23 underscoring have been used only to show the changes being made
24 by this Act in the reenacted text.

1 Section 5. The Premises Liability Act is amended by
2 reenacting and changing Sections 2 and 3 as follows:

3 (740 ILCS 130/2) (from Ch. 80, par. 302)

4 Sec. 2. The distinction under the common law between
5 invitees and licensees as to the duty owed by an owner or
6 occupier of any premises to such entrants is abolished.

7 The duty owed to such entrants is that of reasonable care
8 under the circumstances regarding the state of the premises or
9 acts done or omitted on them. The duty of reasonable care under
10 the circumstances which an owner or occupier of land owes to
11 such entrants does not include any of the following: a duty to
12 warn of or otherwise take reasonable steps to protect such
13 entrants from conditions on the premises that are known to the
14 entrant, are open and obvious, or can reasonably be expected to
15 be discovered by the entrant; a duty to warn of latent defects
16 or dangers or defects or dangers unknown to the owner or
17 occupier of the premises; a duty to warn such entrants of any
18 dangers resulting from misuse by the entrants of the premises
19 or anything affixed to or located on the premises; or a duty to
20 protect such entrants from their own misuse of the premises or
21 anything affixed to or located on the premises.

22 The reenactment by this amendatory Act of the 99th General
23 Assembly of the changes made to this Section by Public Act 89-7
24 applies to causes of action accruing on or after the effective

1 date of this amendatory Act. ~~This amendatory Act of 1995~~
2 ~~applies to causes of action accruing on or after its effective~~
3 ~~date.~~

4 (Source: P.A. 89-7, eff. 3-9-95.)

5 (740 ILCS 130/3) (from Ch. 80, par. 303)

6 Sec. 3. Nothing herein affects the law as regards the
7 trespassing child entrant. An owner or occupier of land owes no
8 duty of care to an adult trespasser other than to refrain from
9 willful and wanton conduct that would endanger the safety of a
10 known trespasser on the property from a condition of the
11 property or an activity conducted by the owner or occupier on
12 the property.

13 The reenactment by this amendatory Act of the 99th General
14 Assembly of the changes made to this Section by Public Act 89-7
15 applies to causes of action accruing on or after the effective
16 date of this amendatory Act.

17 ~~This amendatory Act of 1995 applies only to causes of~~
18 ~~action accruing on or after its effective date.~~

19 (Source: P.A. 89-7, eff. 3-9-95.)