



MICHIGAN
CHAMBER
of Commerce

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Testimony in Support of HB 4582

Good morning, Chair Lightner and members of the Committee. My name is Randy Gross, and I am the Senior Director of Legislative Affairs and Associate General Counsel for the MI Chamber. The MI Chamber is a statewide business organization representing job providers, small and large, across all 83 counties of Michigan.

On behalf of Michigan’s residential, commercial, and industrial property owners, thank you for the opportunity to testify in support of House Bill 4582.

We come before you today to express our deep concern with the current state of Michigan’s premises liability law and to urge swift legislative action on HB 4582 to restore fairness and predictability.

In 2023, the Michigan Supreme Court overturned the state’s longstanding *open and obvious* doctrine—a doctrine that for more than two decades protected property owners from liability when a hazard was clearly visible to an “average person or ordinary intelligence.” This standard discouraged frivolous lawsuits and provided much-needed stability to property owners across Michigan.

The Court’s ruling has fundamentally changed the playing field. Now, property owners can be sued and held liable for obvious hazards. Every case must

undergo a full fault analysis by a jury, increasing the likelihood of costly litigation and creating major new risks for property owners.

It is important to note that Michigan is now a national outlier.

- We are only one of nine states that has done away with the O&O doctrine as a limit of duty.¹
- The large majority of states, including all of our neighboring states, apply some form of the O&O doctrine as a limit of a landowners' duties. In those states, property owners are not liable for failing to warn of dangers that are clear and apparent to a reasonable visitor.

Until last year, Michigan was aligned with this widely accepted principle: that landowners did not have a duty to warn or protect against hazards an ordinary person should see and avoid. The 2023 ruling has pulled Michigan far outside the mainstream.

The practical consequences of this shift are severe, especially in Michigan:

- **More lawsuits** – Nearly every “slip-and-fall” claim can now move forward, increasing filings and fueling litigation. This is particularly damaging in Michigan, where snow and ice drive a substantial number of premises liability claims—far more than in states like Arizona or Florida.
- **Higher costs** – Since the doctrine was abolished, businesses have already reported a significant increase in liability claims, driving up insurance premiums and creating financial uncertainty.
- **Greater uncertainty** – Small businesses are especially vulnerable. Michigan has already been labeled a “judicial hellhole” by the American Tort Reform Association for exposing small employers to frivolous lawsuits—lawsuits that ultimately raise the cost of goods and services for every consumer.
- **More jury trials** – Without the *open and obvious* safeguard, many more cases must now be decided by juries rather than dismissed early by courts. This means slower, more expensive litigation, which inflates Michigan's already high tort costs for businesses and residents alike.

¹Footnote: This data is credible but, if asked, say that you don't have the list with you. We can follow up.

- **Lawyers benefit most** – The only clear winners from this shift are lawyers, who will reap millions in fees and settlements, while small businesses, families, and consumers are left to pay the price.

This is more than an abstract legal debate. Left unchecked, Michigan risks becoming a costly and unpredictable legal environment. States that have weakened or abandoned consistent liability standards have seen sharp increases in insurance costs and, in many cases, were forced to reverse course. Michigan should not wait until the damage is done.

House Bill 4582 is a needed step to restore balance and predictability. By rethinking how the law handles these *open and obvious* scenarios, the Legislature can bring Michigan back into alignment with the majority of states, protect property owners from unfair liability, and still ensure fair recourse for individuals truly harmed by negligence.

We thank Representative Neyer for his leadership in introducing this legislation and Chair Lightner for holding today's hearing on such an important issue. We look forward to further engagement with the committee on refining the bill to ensure Michigan's liability law is fair, predictable, and competitive for the years ahead.

Thank you for your time; I'd be happy to answer any questions.