

HOUSE BILL No. 5433

November 8, 2007, Introduced by Rep. Gaffney and referred to the Committee on Judiciary.

A bill to amend 1846 RS 66, entitled

"Of estates in dower, by the curtesy, and general provisions concerning real estate,"

(MCL 554.131 to 554.139) by adding section 40.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 40. (1) A POSSESSOR HAS A DUTY TO USE ORDINARY CARE TO
2 PROTECT AN INVITEE FROM RISK OF HARM FROM A CONDITION ON THE
3 POSSESSOR'S LAND, PREMISES, OR PLACE OF BUSINESS IF BOTH OF THE
4 FOLLOWING APPLY:

5 (A) THE RISK OF HARM IS UNREASONABLE.

6 (B) THE POSSESSOR KNOWS OR IN THE EXERCISE OF ORDINARY CARE
7 SHOULD KNOW OF THE CONDITION AND SHOULD REALIZE THAT IT INVOLVES AN
8 UNREASONABLE RISK OF HARM TO AN INVITEE.

1 (2) IN AN ACTION AGAINST A POSSESSOR FOR DAMAGES SUSTAINED BY
2 AN INVITEE BECAUSE OF A CRIMINAL ACT ON THE POSSESSOR'S LAND,
3 PREMISES, OR PLACE OF BUSINESS, THE TRIER OF FACT MAY DETERMINE
4 THAT THE CRIMINAL ACT CONSTITUTED AN UNREASONABLE RISK OF HARM
5 AGAINST WHICH THE POSSESSOR HAD A DUTY TO USE ORDINARY CARE TO
6 PROTECT THE INVITEE IF SIMILAR CRIMINAL ACTS HAD OCCURRED
7 PREVIOUSLY ON THE POSSESSOR'S LAND, PREMISES, OR PLACE OF BUSINESS.

8 (3) AS USED IN THIS SECTION:

9 (A) "INVITEE" MEANS A PERSON WHO IS INVITED, EXPRESSLY OR
10 IMPLIEDLY, TO ENTER OR REMAIN ON LAND, PREMISES, OR A PLACE OF
11 BUSINESS FOR A COMMERCIAL BENEFIT TO THE POSSESSOR OF THE LAND,
12 PREMISES, OR PLACE OF BUSINESS OR FOR A PURPOSE DIRECTLY OR
13 INDIRECTLY CONNECTED WITH BUSINESS DEALINGS WITH THE POSSESSOR.

14 (B) "POSSESSOR" MEANS A PERSON WHO IS 1 OF THE FOLLOWING:

15 (i) A PERSON WHO IS IN OCCUPATION OF LAND WITH THE INTENT TO
16 CONTROL IT.

17 (ii) A PERSON WHO HAS BEEN IN OCCUPATION OF LAND WITH THE
18 INTENT TO CONTROL IT, IF NO OTHER PERSON HAS SUBSEQUENTLY OCCUPIED
19 THE LAND WITH THE INTENT TO CONTROL IT.

20 (iii) A PERSON WHO IS ENTITLED TO IMMEDIATE OCCUPATION OF LAND,
21 IF NO OTHER PERSON IS IN POSSESSION OF THE LAND UNDER SUBPARAGRAPH

22 (i) OR (ii) .