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**Standing Committee on
Regulations and Private Bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

1st Session
42nd Parliament

Thursday 12 November 2020

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42^e législature

Thursday 12 novembre 2020

Chair: Deepak Anand
Clerk: Isaiah Thorning

Président : Deepak Anand
Greffier : Isaiah Thorning

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS
DE LOI D'INTÉRÊT PRIVÉ**

Thursday 12 November 2020

Thursday 12 novembre 2020

The committee met at 0900 in committee room 1 and by video conference.

OCCUPIERS' LIABILITY
AMENDMENT ACT, 2020
LOI DE 2020 MODIFIANT
LA LOI SUR LA RESPONSABILITÉ
DES OCCUPANTS

Consideration of the following bill:

Bill 118, An Act to amend the Occupiers' Liability Act / Projet de loi 118, Loi modifiant la Loi sur la responsabilité des occupants.

The Chair (Mr. Deepak Anand): As you're aware, we are here to conduct clause-by-clause consideration of Bill 118, An Act to amend the Occupiers' Liability Act.

As said earlier, we have MPP Billy Pang physically present here. The following members are participating through Zoom: MPP Stephen Crawford, MPP John Fraser, MPP Gila Martow, MPP Dave Smith, MPP Jamie West, MPP Norman Miller and MPP Sam Oosterhoff. Thank you so much.

Along with the members, we have staff from Hansard, broadcast and recording, and legislative counsel. They have joined us remotely as well.

To make sure that everyone can understand what is going on, it is important that all participants speak slowly and clearly. Please wait until I recognize you before starting to speak since it could take a little time for your audio and video to come up. After I recognize you, please take a brief pause before beginning. As always, all comments should go through the Chair.

The Clerk has distributed the amendment package to all members and staff electronically. At this time, I would like to ask if you have any questions. Have all of you got the amendment package? Great. Thank you.

Respectfully, at this moment, I'll ask all the members: Are there any comments, questions or amendments to any section of the bill, and if so, to which section? I see MPP Fraser. MPP Fraser, go ahead, sir.

Mr. John Fraser: Thank you very much, Mr. Chair. I will withdraw my amendment, as I see in the following amendment the government has made that it has provided for a longer notice period.

The Chair (Mr. Deepak Anand): We will be calling section 1 and then subsequently we'll be talking about it.

Mr. John Fraser: Okay. Sorry, yes. I'm getting ahead of myself.

The Chair (Mr. Deepak Anand): At this moment, is there any other member who would like to make any comment? Seeing none—okay, great.

We're moving over to section 1 of the bill. We do have a Liberal motion for section 1. MPP Fraser? Go ahead, sir.

Mr. John Fraser: I'll be withdrawing this motion as I see the government has provided for a greater notice period in the following amendment.

The Chair (Mr. Deepak Anand): Great. Thank you so much.

At this time, I will ask—it is a government motion, so is there any member who would like to—yes, go ahead, MPP Miller.

Mr. Norman Miller: Yes, Chair. Is it the correct time to move the motion, then?

The Chair (Mr. Deepak Anand): Yes, please.

Mr. Norman Miller: I move that section 1 of the bill be struck out and the following substituted:

"1. The Occupiers' Liability Act is amended by adding the following section:

“Notice period—*injury from snow, ice*

“6.1(1) No action shall be brought for the recovery of damages for personal injury caused by snow or ice against a person or persons listed in subsection (2) unless, within 60 days after the occurrence of the injury, written notice of the claim, including the date, time and location of the occurrence, has been personally served on or sent by registered mail to at least one person listed in subsection (2).

“Same

“(2) The persons referred to in subsection (1) are the following:

“1. An occupier.

“2. An independent contractor employed by the occupier to remove snow or ice on the premises during the relevant period in which the injury occurred.

“Copy of notice

“(3) An occupier that receives notice under subsection (1) shall personally serve a copy of the notice on, or send the notice by registered mail to,

“(a) any occupiers of the premises during the relevant period in which the injury occurred; and

“(b) any independent contractor employed by the occupier to remove snow or ice on the premises during the relevant period in which the injury occurred.

“Same

“(4) An independent contractor employed by an occupier to remove snow or ice on the premises that receives a notice under subsection (1) shall personally serve a copy of the notice on, or send the notice by registered mail to, the occupier that employed the independent contractor.

“Exception

“(5) Failure to give notice in accordance with subsection (1) is not a bar to the action in the case of the death of the injured person as a result of the injury.

“Same

“(6) Failure to give notice in accordance with subsection (1) or insufficiency of the notice is not a bar to the action if a judge finds that there is reasonable excuse for the want or the insufficiency of the notice and that the defendant is not prejudiced in its defence.

“Notice effective against all persons

“(7) For greater certainty, the limitation on bringing actions after the 60-day period set out in subsection (1) no longer applies if notice is provided in accordance with that subsection to any person listed in subsection (2), even if the action is to be brought against a person that did not originally receive the notice.”

The Chair (Mr. Deepak Anand): Thank you, MPP Miller, for that.

At this time, I would like to ask all the members if there is any debate. Would any member like to have their comments? I see MPP Miller. Yes, MPP Miller. Go ahead, sir.

Mr. Norman Miller: Yes, thank you, Chair. I think we all heard on Monday about the huge increases in costs for liability insurance that snow removal companies are facing. In particular, the one that stuck in my head was the company that, three years ago, was paying \$15,000 for liability insurance, and this year, their quote is \$115,000—and of course, a lot of the small companies can't get insurance at all.

Snow removal is an essential service in Ontario. We do have winter here. The amendments are meant to balance the rights of property owners, tenants and their snow removal contracts with the rights of individuals legitimately injured because of a fall on poorly maintained property with snow and ice.

The amendment also clarifies the means of notice so that it could be personally served or sent by registered mail. That notice can be given to just one of either the occupier or the snow removal contractor, and then it's the responsibility of that company or individual to give notice to others.

I think it makes things a lot clearer and I hope that members will support it.

The Chair (Mr. Deepak Anand): Thank you so much. Would any other members like to comment? I see MPP West.

I just want to say that because of the amendment shown on the screen, I am not able to see all the members. If any of you would like to speak, don't just raise your hand, but if possible, can you text to the Clerk as well?

MPP West: Go ahead, sir.

Mr. Jamie West: I want to thank MPP Miller for the amendment and for the bill. It was very clear, from what

we had heard, there were real issues with snow removal. Much like in his riding of Parry Sound, Sudbury would be affected, as would Ottawa and—well, all of our ridings; let's be honest.

Unfortunately, we didn't have enough time to maybe hear from litigants. It would have been nice to hear from that side of it. But I really think this amendment captures everything that we heard from the point of view of the insurance brokers and the point of view of the snow removal companies, so I think you did a great job with your bill. The amendments capture essentially everything that I heard through this conversation, so thank you, MPP Miller.

0910

The Chair (Mr. Deepak Anand): Further debate? Seeing none are the members ready to—okay, sorry. Go ahead, MPP Fraser.

Mr. John Fraser: Thank you very much, Chair. I'll echo some of my colleague MPP West's comments. I think the amendment that has been put forward, as such, is balanced and addresses many of the things that we heard at committee, including the extension of the notice period and the importance of co-defendants notifying each other if there is a claim that's been made, so that people aren't surprised.

The only question I had—and this is for legal counsel; and this is just for my own personal edification—is, what does “personally serve” capture? I know what registered mail is, but when we say “personally serve,” what would be captured in that?

The Chair (Mr. Deepak Anand): Thank you, MPP Fraser. We actually have legislative counsel: Navdeep is on the line. Navdeep, would you like to clarify?

Mr. Navdeep Purewal: Generally for “personally served” it would have to be served on their person, the way court documents often have to be served, directly on the person by a process server.

Mr. John Fraser: So a process server. Okay.

The Chair (Mr. Deepak Anand): MPP Fraser, is that sufficient, or would you like to ask more?

Mr. John Fraser: Thank you very much, and I'll be supporting this change.

The Chair (Mr. Deepak Anand): Thank you so much. Thanks, Navdeep.

At this time, if there is no more debate, are the members ready to vote? Thank you for the nod.

Shall section 1, as amended, be carried? All right, thank you for that.

Interjection.

The Chair (Mr. Deepak Anand): By the way, I have to ask for the vote on the amendment first, so are members ready to vote on the amendment? All those in favour, please raise your hand. All those opposed? Seeing none, I move the amendment carried.

Shall section 1, as amended, be carried? All those in favour, raise your hand. All those opposed? Seeing none, I move section 1, as amended, carried.

There is no amendment to section 2, so is there any debate on section 2? Seeing none, are the members ready to vote? Please raise your hand. Great. All those in favour,

please raise your hand. All those opposed? Seeing none at this time, section 2 is carried.

Section 3, short title: Is there any debate? Seeing none, are the members ready to vote? Shall section 3 be carried? All those in favour, please raise your hand. All those opposed? Seeing none, section 3, which is the short title, is carried.

Moving over to the title: Is there any debate? Seeing none, are the members ready to vote on the title of the bill? All those in favour, please raise your hand. All those opposed? Seeing none, I declare the title of the bill carried.

At this time I'll ask the members: Shall Bill 118, as amended, be carried? Is there any debate? Seeing none, are the members ready to vote?

Shall Bill 118, as amended, carry? All those in favour, please raise your hand. All those opposed? Seeing none, I declare Bill 118, as amended, carried.

At this point, I will ask the honourable members: Shall I report the bill, as amended, to the House? Is there any debate? Seeing none, are the members ready to vote? All those in favour, please raise your hand. All those opposed? Seeing none, at this point, I will report the bill, as amended, to the House. Thank you so much for your co-operation.

With that, I'd like to say, one more time, thank you, everyone, for joining us today and for your input. At this time, this concludes our business for today. The committee is now adjourned.

The committee adjourned at 0916.

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