

# Barefoot Myths and Prejudice

I go shoeless for health and personal reasons. Because of the misinformation and intolerance I sometimes face, I have educated myself on the issues involved. Most important, I know that as a responsible adult I am fully responsible for the consequences of my decision to go barefoot.

## **Health Regulations and Laws**

Health departments are concerned with the storage, handling, and preparation of food, and of the hygiene of *employees*. They are totally unconcerned with the manner of dress of *patrons*. The Ohio Department of Health (614-466-3543) has confirmed there are no state health regulations or laws banning bare feet anywhere. The Franklin County Board of Health (614-462-5258) and Columbus Health Department (614-645-8191) have confirmed they have no local health regulations or laws banning bare feet anywhere.

## **Liability**

*Duty of care*. A business owner is *not* the insurer of a customer's safety. The owner must only guard against unreasonable risks about which the customer would not be otherwise aware, or a risk that the customer could not appreciate. Under "primary assumption of the risk," no duty of care is owed for risks inherent in a given activity. A barefoot customer can fully appreciate the risks of going barefoot and has the superior knowledge over the business owner, so a business owner has no special duty of care to a barefoot customer. In fact, business owners who *require* footwear in their stores for "liability reasons" might be opening themselves up to "duty of care" lawsuits. By deeming the lack of footwear unsafe and not allowed, the business owner has taken under their wing the whole range of possibly unsafe footwear.

*Comparative or contributory negligence (ORC 2315.19)*. If a lawsuit made it past the "duty of care" barrier (very unlikely), a jury then weighs the relative negligence of the business owner and the customer. Any award would then be reduced by the amount of negligence attributed to the customer. If a barefoot customer were to injure their foot, any rational jury would grant no award.

## **Insurance**

Sometimes a business claims that it cannot admit bare feet because their insurance company forbids it in their policy. Extensive research has uncovered no insurance policy that forbids bare feet or of the existence of any data showing that bare feet are a statistically significant risk that would motivate actuaries to add such a restriction to policies. Insurance companies contacted about this have said that there are no such restrictions in liability insurance policies.

## **Offensive Appearance**

Some claim that bare feet are somehow "offensive to other customers." How can bare feet be offensive yet feet with thin straps on the tops and a thin layer of material on the soles suddenly make them not offensive when there is little difference in appearance (e.g. flip-flops)? There are things that customers might find offensive in others, but most value their individuality, freedom, and comfort more than imposing their personal biases on others. For example, most businesses accept body and facial piercings, all manner of tattoos, excessive perfume or body odor, dirty clothing, and unruly, noisy children (who truly are an intrusion).

## **Corporate Policy**

Many insist that corporate policy forbids bare feet. In fact, most corporations welcome customers (and their money) regardless of how they are dressed. Also, all corporations with which I have had experience have all their regulations printed in policy and procedure manuals with copies available in the general manager's office. I have yet to be shown such a policy. If a corporate policy is to be enforced upon customers, then customers should be allowed access to a written copy of such policy.

## **Conclusion**

An unfortunate human tendency is to discriminate against things not understood and then blame someone else. All the above arguments allow the business to shift the blame for the "regulation" or "policy" onto someone else, thus giving the impression that the "nice" business operator might otherwise allow bare feet, but "can't" because someone else won't allow them to. In truth, it is ignorance, prejudice, or both.