

Cities  
Carney, Chairperson  
Comite  
Kinley

FILED MAR 9 1981

SENATE FILE 374

BY COMMITTEE ON CITIES  
*Approved 2/19 (p. 713)*  
(FORMERLY SSB 149)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the duties and liabilities of persons with  
2 respect to public places located within cities, and taking  
3 effect upon publication.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 364.12, subsection 2, Code 1981, is  
2 amended to read as follows:

3 2. A city ~~is responsible for the care, supervision, and~~  
4 ~~control of~~ shall keep all public grounds, streets, sidewalks,  
5 alleys, bridges, culverts, overpasses, underpasses, grade  
6 crossing separations and approaches, ~~except those lawfully~~  
7 ~~required to be maintained by a railway company, and the city~~  
8 ~~shall keep all public ways, squares, and commons~~ open, in  
9 repair, and free from nuisance, with the following exceptions:

10 a. Public ways and grounds may be temporarily closed by  
11 resolution. Following notice as provided in section 362.3,  
12 ~~such~~ public ways and grounds may be vacated by ordinance.

13 b. The abutting property owner ~~is responsible for the~~  
14 ~~prompt removal of~~ shall remove snow, ice, and accumulations  
15 from the sidewalks and is liable to persons claiming injury  
16 or damage because of the failure of the abutting property  
17 owner to use reasonable care in the removal of snow, ice,  
18 and accumulations from the sidewalks.

19 c. The abutting property owner may be required by ordinance  
20 to maintain all property outside the lot and property lines  
21 and inside the curb lines upon the public streets, except  
22 that the property owner shall not be required to remove  
23 diseased trees or dead wood on the publicly owned property  
24 or right of way.

25 d. A city may serve notice on the abutting property owner,  
26 by certified mail to the property owner as shown by the records  
27 of the county auditor, requiring ~~him~~ the abutting property  
28 owner to repair, replace, or reconstruct sidewalks.

29 e. If the abutting property owner does not perform an  
30 action required under this subsection within a reasonable  
31 time, a city may perform the required action and assess the  
32 costs against the abutting property for collection in the  
33 same manner as a property tax. This right does not relieve  
34 the abutting property owner of liability imposed under  
35 paragraph b.

1 f. A city has no duty under this subsection with respect  
2 to property that is required by law to be maintained by a  
3 railway company.

4 Sec. 2. This Act, being deemed of immediate importance,  
5 takes effect from and after its publication in the Urbandale  
6 News, a newspaper published in Urbandale, Iowa, and in The  
7 Sioux City Journal, a newspaper published in Sioux City, Iowa.

8 EXPLANATION

9 This bill relates to the duties and liabilities of cities,  
10 railway companies, and abutting property owners with respect  
11 to the maintenance of certain types of property located within  
12 cities. The bill would amend the city code to provide that  
13 an abutting property owner is liable for injury to persons  
14 or property caused by the failure of abutting property owners  
15 to use reasonable care in the removal of snow, ice, and  
16 accumulation from sidewalks.

17 The bill also contains an amendment to specifically state  
18 that a city is not required to maintain property that is re-  
19 quired by law to be maintained by a railway company. The  
20 existing provision does not clearly indicate those situations  
21 in which a city is responsible.

22 The bill would take effect upon publication.

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SENATE FILE 374  
FISCAL NOTE  
REQUESTED BY SENATOR READINGER

In compliance with a written request there is hereby submitted a Fiscal Note for Senate File 374 pursuant to Joint Rule 16.

SF 374 , An Act relating to the duties and liabilities of persons with respect to public places located within cities, and taking effect upon publication.

This bill relates to the duties and liabilities of cities, railway companies, and abutting property owners with respect to the maintenance of certain types of property located within cities.

According to a recent Supreme Court decision, the municipal governments in the State of Iowa will be responsible for removing snow from city sidewalks as well as the usual curb-to-curb removal. Personal service and capital outlay necessary to accomplish that task will cost an estimated \$2,234,000 per year according to a conservative estimate.

SF 374 would delineate that responsibility and the attendant cost to the abutting property owner, therefore saving the municipality anticipated expense.

SOURCE: LEAGUE OF MUNICIPALITIES

FILED  
MARCH 19, 1981

BY GERRY D. RANKIN, DIRECTOR  
LEGISLATIVE FISCAL BUREAU

SENATE FILE 374

S-3185

1 Amend Senate File 374 as follows:  
2 1. Page 1, by striking lines 7 and 8 and  
3 inserting in lieu thereof the following: "~~required~~  
4 ~~to-be-maintained-by-a-railway-company~~, and the city  
5 shall keep all public ways, squares, and commons  
6 open, in".

S-3185 FILED  
MARCH 13, 1981

BY BILL HUTCHINS

SENATE FILE 374

S-3186

1 Amend Senate File 374 as follows:  
2 1. Page 1, by striking line 8 and inserting in  
3 lieu thereof the following: "~~shall-keep-all~~, public  
4 ways, squares, and commons open, in".

S-3186 FILED  
MARCH 16, 1981

BY BILL HUTCHINS

SENATE FILE 374

S-3194

1 Amend Senate File 374 as follows:  
2 1. Page 1, by striking lines 13 and 14 and  
3 inserting in lieu thereof the following:  
4 "b. The abutting property owner is responsible  
5 for the prompt removal of snow, ice, and accumulations".  
6 2. Page 1, line 15 by striking the words  
7 "is liable" and inserting in lieu thereof the words  
8 "may be liable, if judicially determined,".

S-3194 FILED  
MARCH 16, 1981

BY A. R. KUDART

SENATE FILE 374

S-3196

1 Amend Senate File 374 as follows:  
2 1. Page 1, by striking lines 15 through 18 and  
3 inserting in lieu thereof the words "from the  
4 sidewalks."  
5 2. Page 1, by striking lines 33 through 35 and  
6 inserting in lieu thereof the words "same manner as  
7 a property tax."

S-3196 FILED  
MARCH 16, 1981

BY EDGAR H. HOLDEN