

La SENATE FILE 300 Dr. Pass 2/24 (p 544)

Withdrawn 3/22/53

Local Government
Wells, Chair
Brown
Waldstein

FEB 23 1953

SENATE FILE 300

BY WELLS and WALDSTEIN

H. 7.359 substituted 3/22/53 (of 829)

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.

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

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S.F. 300

1 Section 1. Section 364.12, subsection 2, Code 1983, 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 snow, ice, and accumulations~~ the natural
15 accumulations of snow and ice from the sidewalks within a
16 reasonable amount of time and may be liable for damages caused
17 by the failure of the abutting property owner to use reasonable
18 care in the removal of the snow or ice. All legal or equitable
19 defenses are available to the abutting property owner in an
20 action brought pursuant to this paragraph. The city's general
21 duty under this subsection does not include a duty to remove
22 natural accumulations of snow or ice from the sidewalks.
23 However, when the city is the abutting property owner it has
24 the specific duty of the abutting property owner set forth
25 in this paragraph.

26 c. The abutting property owner may be required by ordinance
27 to maintain all property outside the lot and property lines
28 and inside the curb lines upon the public streets, except
29 that the property owner shall not be required to remove
30 diseased trees or dead wood on the publicly owned property
31 or right of way.

32 d. A city may serve notice on the abutting property owner,
33 by certified mail to the property owner as shown by the records
34 of the county auditor, requiring ~~him~~ the abutting property
35 owner to repair, replace, or reconstruct sidewalks.

1 e. If the abutting property owner does not perform an
2 action required under this subsection within a reasonable
3 time, a city may perform the required action and assess the
4 costs against the abutting property for collection in the
5 same manner as a property tax. This power does not relieve
6 the abutting property owner of liability imposed under
7 paragraph b.

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

11 EXPLANATION

12 This bill provides that within a city the abutting property
13 owner is responsible for the prompt removal of the natural
14 accumulations of snow and ice from the sidewalks. The abutting
15 property owner may be liable for damages caused by the failure
16 to use reasonable care in the removal of snow or ice. The
17 city's general duty to keep public areas clear and free of
18 nuisance does not include a duty to remove natural
19 accumulations of snow and ice. However, when the city is
20 the abutting property owner, the city has the same obligation
21 as other abutting property owners.

22 The bill becomes effective July 1 following enactment.

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SENATE FILE 300

S-3180

- 1 Amend Senate File 300 as follows:
- 2 1. Page 1, by striking lines 16 through 20 and
- 3 inserting in lieu thereof the words "reasonable amount
- 4 of time. The city's general".
- 5 2. Page 2, by striking lines 5 through 7 and
- 6 inserting in lieu thereof the words "same manner as
- 7 a property tax."
- 8 3. Page 2, by inserting after line 10 the
- 9 following:
- 10 "Neither the city nor the abutting property
- 11 owner may be held liable for damages caused by the
- 12 natural accumulations of snow or ice on the sidewalks
- 13 of this state."

S-3180 FILED
MARCH 7, 1983

BY EDGAR H. HOLDEN

SENATE FILE 300

S-3184

- 1 Amend Senate File 300 as follows:
- 2 1. Page 1, line 20, by inserting after the word
- 3 "paragraph." the following: "In the alternative,
- 4 the abutting property owner may request in writing
- 5 that the city remove the sidewalk. The city must
- 6 remove the sidewalk, if requested to do so by the
- 7 abutting property owner."

S-3184 FILED
MARCH 7, 1983

BY EDGAR H. HOLDEN

SENATE FILE 300

S-3186

- 1 Amend Senate File 300 as follows:
- 2 1. Page 1, line 18, by inserting after the words
- 3 "removal of the" the words "natural accumulations
- 4 of".
- 5 2. Page 2, line 7, by inserting after the words
- 6 "paragraph b." the following: "However, a city acting
- 7 under this paragraph may be liable for damages caused
- 8 by the failure to use reasonable care in the removal
- 9 of the natural accumulations of snow and ice."

S-3186 FILED
MARCH 7, 1983

BY EDGAR H. HOLDEN

SENATE FILE 300

S-3187

- 1 Amend Senate File 300 as follows:
- 2 1. Page 2, line 6, by striking the word "imposed"
- 3 and inserting in lieu thereof the words "for which he
- 4 or she may be liable".

S-3187 FILED
MARCH 7, 1983

BY EDGAR H. HOLDEN