



WalkBoston

April 23, 2007

The Joint Committee on Municipalities and Regional Government
Room 134
State House
Boston, MA 02133

Dear Committee Members:

WalkBoston, Massachusetts' leading pedestrian advocacy organization, writes to express our support for H1987, An Act Relative to Snow and Ice Removal. We support this legislation because it will encourage sidewalk snow and ice removal by Massachusetts property owners by eliminating liability for property owners (or their agents) who shovel their sidewalks in those communities where such shoveling is required by local ordinance. Specifically, it removes liability for accidental injuries resulting from clearing snow and ice (in communities that require sidewalk snow and ice removal) unless the actions constitutes gross negligence. The bill is modeled after similar Illinois legislation (shown below).

The existing problem that this legislation will remedy is that while Massachusetts authorizes cities and towns to require property owners or occupants to remove snow and ice from sidewalks. (Ch. 85, Section 5), and while some cities and towns have local ordinances that require removal of snow and ice from sidewalks on their properties, those persons who remove snow are potentially liable if shoveling leads to accidental injuries. By contrast, residents, landlords and tenants are not liable for injuries caused by the untouched natural accumulation of snow and ice on their property.

WalkBoston believes strongly that Massachusetts should encourage the removal of ice and snow from sidewalks, and should support communities that require snow and ice removal. Clear, easily passable sidewalks are needed for pedestrian safety, particularly for children, elders and persons with disabilities. Un-cleared sidewalks pose a hazard for all pedestrians, and often result in pedestrians walking in streets that are narrowed by piles of snow. H1987 will insure that Massachusetts residents who shovel snow and ice from their property will not be liable for accidental injuries unless their behavior constitutes gross negligence.

In order to clarify the language of the bill, we hope that the text of the bill will be revised as follows:

H.1987: Bill as currently filed:

AN ACT RELATIVE TO SNOW AND ICE REMOVAL.

Chapter 85 is hereby amended by inserting after Section 5 the following sections:

SECTION 5A. The general court determines that it is undesirable for any person to be found liable for damages due to his or her efforts in the removal of snow or ice from such sidewalks, except for acts which amount to clear wrongdoing, as described in Chapter 85, Section 5B.

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Old City Hall | 45 School Street | Boston MA 02108 | T: 617.367.9255 | F: 617.367.9285 | info@walkboston.org | www.walkboston.org

SECTION 5B. Any owner, lessor, occupant or other person in charge of any residential property, or any agent of or other person engaged by any such party, who removes or attempts to remove snow or ice from sidewalks abutting the property shall not be liable for any personal injuries allegedly caused by the snowy or icy condition of the sidewalk resulting from his or her acts or omissions unless the alleged misconduct was gross negligence.

H.1987: Proposed revised language (changes are underlined or struck out):

Chapter 85 is hereby amended by inserting after Section 5 the following sections:

Section 5A: The general court determines that it is desirable for cities and towns to enact ordinances or bylaws requiring abutters to remove snow or ice from sidewalks and that it is undesirable for any person to be found liable for damages due to his or her efforts in the removal of snow or ice from such sidewalks pursuant to such an ordinance or bylaw, except for acts which amount to clear wrongdoing, as described in Chapter 85, Section 5B.

Section 5B: Any ~~owner, lessor, occupant or other person in charge of any residential property~~ person who is required by any such ordinance or bylaw to remove snow or ice from sidewalks, or any agent of or other person engaged by any such ~~party~~ person, who removes or attempts to remove snow or ice from sidewalks abutting the property shall not be liable for any personal injuries allegedly caused by the snowy or icy condition of the sidewalk resulting from his or her acts or omissions unless the alleged misconduct was gross negligence.

Thank you very much for your consideration of this important legislation.

Very Truly Yours,

Wendy Landman
Executive Director

Existing Illinois legislation: 745 ILCS 75/0.01, 75/1 and 75/2

- Sec. 1. The public policy of the state is that owners and other residents be encouraged to clean the sidewalks abutting their residences of snow and ice. The General Assembly, therefore, determines that it is undesirable for any person to be found liable for damages due to his or her efforts in the removal of snow or ice from such sidewalks, except for acts which amount to clear wrongdoing.
- Sec. 2. Any owner, lessor, occupant or other person in charge of any residential property, or any agent of or other person engaged by any such party, who removes or attempts to remove snow or ice from sidewalks abutting the property shall not be liable for any personal injuries allegedly caused by the snowy or icy condition of the sidewalk resulting from his or her acts or omissions unless the alleged misconduct was willful or wanton.