

Child Injury Laws *Blog*

After The Chicago Blizzard Of 2011, It's Important To Evaluate The Law With Respect To Slips & Falls On Ice And Snow

Posted by **Jonathan Rosenfeld** on April 20, 2011

During the winter months, our **law office** gets many calls from parents coping with an injury to a child due to a fall on ice and snow.

While some of these cases are particularly disturbing in light of the fact that the **child may have sustained serious injuries**, from a legal perspective, these cases can be difficult to prosecute and recover compensation for the resulting injuries.

Children, in particular, rely on the property owners to provide a facility free of dangers that might cause dangerous falls or accidents. This responsibility includes the removal of snow and ice, which creates a serious risk of falling.

In Illinois, injuries that occur on another person's property are governed by the Premises Liability Act (740 ILCS 130), which instills a responsibility on owners or occupiers of land owe invitees and licensees a duty of care to maintain their property.

An owner or lessee must provide a reasonably safe means of access to its business. If you bring a premises liability claim, you, the plaintiff, have the burden of proving that your

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injuries were caused by a condition on the property that was not reasonably safe that the owner knew or should have known of by the exercise of reasonable care.

However, this duty of reasonable care is different in the case of snow and ice on property. In Illinois, absent a contractual obligation, if you are walking down the street and happen to slip and fall on a snow or ice covered sidewalk or parking lot, the property owner owes you no duty to remove the natural accumulation of snow, water, or ice. (Illinois Snow and Ice Removal Act – 745 ILCS 75).

The Act states that it is undesirable for any person to be liable for damages due to his snow removal efforts, unless his actions amount to “clear wrongdoing.” Illinois follows the natural accumulation rule, where a property owner is only liable for a snow or ice related accident only if their alleged misconduct was willful and wanton or there was an unnatural accumulation of snow or ice or a natural condition that is aggravated by the owner. (McBride v. Taxman Corp., 327 Ill.App.3d 992 (1st Dist.2002); Ziencina v. County of Cook, 188 Ill. 2d 1 (1999)).

Natural accumulation is the result of natural weather conditions; whether accumulation is natural or not is oftentimes a difficult factual question. Examples of natural accumulation are:

- A sidewalk that has not been shoveled
- Puddles of water inside buildings from melting snow
- Ice formed by snow being packed down by pedestrians

Unnatural accumulation would be any actions by the property owner that cause snow or ice to accumulate in a specific location. One exception to the natural accumulation rule is if there is a contractual obligation to remove snow or ice; for example, if the property owner

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or manager has a provision in a lease providing that the owner agrees to remove snow or ice. If this is the case, the owner may be held liable.

Because children are more vulnerable than the common invitee or licensee, the degree of care owed is greater in recognition of that vulnerability. Therefore, **daycare facilities**, child activity centers and stores catering to children arguably need to employ special measures to protect their young patrons.

Because many children may not be familiar with slippery conditions or how to brace for a fall, the resulting injury may be more severe than in the general population.

Therefore, business that cater to children must take extra precautions to make their facility / business safe for children. This includes installing slip-resistant flooring and removing dangerous snow and ice.

Unnatural Accumulations Of Snow & Ice

If the business owner removes snow or ice in a negligent manner or creates an unnatural accumulation of snow or ice, they may be liable for a child's slip and fall injuries. Similarly, if you are accompanying your child to the business and happen to slip and fall on snow or ice, you may bring an action against the business even though you are not a party to the contract because you are a foreseeable user of the premises.

If you or your child has suffered a dangerous fall because of dangerous snow or ice accumulation at a daycare center or business catering to children, you may have the right to hold the property owner or maintenance company responsible for those injuries.

However, given the complexity of the law when it comes to slips and falls on ice and snow, it is best to speak with **lawyers experienced** in these matters before talking with a

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representative from an insurance company. Unknowingly, a statement made to an insurance carrier may be the kiss of death to your potential injury claim.

Resources:

Illinois General Assembly – Premises Liability Act, 740 ILCS 130

Illinois General Assembly – Snow and Ice Removal Act, 745 ILCS 75

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