



SPONSOR: Rep. Brady & Sen. Henry

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 452

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON.

1 WHEREAS, the City of Wilmington's Charter was adopted by referendum on November 7, 1978, and became
2 effective on July 1, 1979; and

3 WHEREAS, Section 5-400 of the City of Wilmington's Charter sets forth the functions and obligations of the
4 Department of Public Works of the City of Wilmington; and

5 WHEREAS, the Delaware Supreme Court, in *Schadt v. Latchford*, 843 A.2d 689 (Del. 2004), held that the
6 decision to transfer to private landowners the responsibility to maintain and repair sidewalks must be made by the
7 Wilmington voters or the General Assembly in the form of a properly enacted amendment to the City of Wilmington's
8 Charter.

9 NOW, THEREFORE:

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all
11 members elected to each house thereof concurring therein):

12 Section 1. Amend § 5-400 of the Charter of the City of Wilmington by making deletions as shown by strike
13 through and insertions as shown by underline as follows:

14 Sec. 5-400. Functions of department generally.

15 The department of public works shall have the power and its duty shall be to perform the following functions:

16 (a) City streets, etc., generally. It shall itself, or by contract, design, construct, repair and maintain city streets,
17 which shall include highways, roads, streets, ~~alleys, footways~~, bridges, tunnels, overpasses and underpasses, including
18 approaches and viaducts, owned, controlled or operated by the city or designated in accordance with the law as streets
19 of the ~~city~~; city. The City may determine by ordinance whether and to what extent the duty to design, construct, repair,
20 and maintain city alleys, footways, and sidewalks may be delegated to responsible parties.

21 (c) Sanitation. The department shall itself, or when specifically authorized by the council, by contract, clean
22 and sand city streets; remove and dispose of ashes, garbage and refuse; remove and dispose of ice and snow from city
23 streets; design, construct, repair, maintain and operate incinerators or other plants or equipment for the disposition of
24 ashes, garbage and refuse; and administer and enforce statutes, ordinances and regulations for maintaining the

25 cleanliness of city streets. The City may determine by ordinance whether and to what extent responsible parties have
26 the duty to remove and dispose of snow or ice from city sidewalks.

SYNOPSIS

In light of the Delaware Supreme Court's decisions in *Schadt v. Latchford* and *Lemos v. Willis*, this Act amends the City of Wilmington's Home Rule Charter to authorize Wilmington City Council to determine the following:

(1) Whether and to what extent the duty to design, construct, repair, and maintain City alleys, footways, and sidewalks may be delegated to responsible parties.

(2) Whether and to what extent responsible parties have the duty to remove and dispose of snow or ice from city sidewalks.