

Lightning Strikes

Tee Up with Common Sense

by David Berliner



“When I’m on a golf course and it starts to rain and lightning, I hold up my one iron, because I know even God can’t hit a one iron.” —Lee Trevino¹

A humorous anecdote from one of professional golf’s all-time greats. Fortunately for Lee Trevino, after being struck by lightning on June 28, 1975 while playing at the Western Open in Oakbrook, Illinois, he lived to joke about it. However, for golf course operators, it’s no joke that lightning presents a very real liability.

A 2006 study by Travelers Insurance Company examined losses for golf facilities by claim type. Lightning incidents were responsible for only 6 percent of *all losses*, but they constituted 15 percent of *all claims*, making it second only to theft (26 percent) in total claim percentage.² The majority of these claims tended to be property damage, i.e., involving

a clubhouse being hit by lightning, tree damage and debris cleanup following a storm or business interruption due to a power outage—and virtually every policy written for a golf course will cover these types of events. However, if your policy does not include **lightning** as a named peril, stop reading immediately and dial the number at the conclusion of this article.

Jolting News

The liability of a course or club to alert customers or members about a potential lightning storm is a hotly debated topic throughout the industry. Determining the best way to alert players on the course, thereby absolving the course of any responsibility, can be a tricky issue.

While lightning strikes are more prevalent in particular areas of the country (Florida is first, Colorado is second),² these incidents are considered “acts of God” that can occur at any time, on any golf course anywhere. No golf course is immune and you would be well served to examine your lightning protocol prior to an impending storm. What you do, or more importantly what you don’t do, could make a shocking difference if you’re involved in a legal dispute.

Generally, golfers realize that they bear the ultimate responsibility for protecting themselves from lightning strikes. However, there have been numerous cases reported in which a player struck by lightning has brought litigation against the golf club, claiming improper warning about potential lightning threats. Of course, most people who are hit and live to tell about it count themselves among the lucky. Unfortunately, in our litigious society, often the second phone call—after the one made to 911—is made to the injured party’s legal counsel.

Warnings

There are various ways in which golf courses can handle potential lightning hazards. Many clubhouses have installed warning sirens. Some facilities provide golf carts with GPS capability, so alert messages may be sent when storms are imminent. It’s also possible for a club to contract with a weather service, which alerts the golf staff by phone. With today’s technology, most clubhouses have access to the internet and can peruse local weather radar when potential for bad weather exists. If your course does not have any of the above warning systems in place, there should be, at the very least, a prominently-posted sign stating that this course *does not* operate a weather detection system.

These are a few proactive steps which you can take to ensure the safety of your club’s players. It is up to the individual golfer, however, to choose between seeking shelter and continuing play. A 1997 Colorado case was filed by the parents of a golfer left disabled due to a lightning strike that also killed her husband. The plaintiffs sued the city, which owned the course, claiming it failed to adequately protect their daughter at the course. The facility had a warning siren but, according to court documents, the course operators did not use it.² This is a perfect example of a course’s having the capability to mitigate a potential problem, but not following through when the situation called for golf employees to issue a warning to players.

Even though an owner takes measures to protect the golf facility legally, it is imperative that the club staff also understand its roles when the sky darkens. The aforementioned plaintiffs actually lost both their lawsuit and the appeal, due to a state law based on the concept of sovereign immunity, whereby a city isn’t liable for injuries or deaths on its property and can’t be sued for negligence unless it agrees to be liable.² Does your club really want to take the chance that you might not win a court case? I’m sure the answer is a resounding “no.”

Serious Stuff

It can be argued that there are several factors which, combined with lightning, further complicate the issue. Examples of these factors are:

- the victim’s failure to appreciate the danger of lightning
- the victim’s failure to take cover
- the unavailability of shelter

The first two are the responsibility of the golfer, but the last one is generally the club’s liability. It is a mistake to assume that because they involve Acts of God, all deaths, injuries and damages caused by lightning are no one’s legal responsibility.³ For this reason, it is extremely important that a club take appropriate action to make sure that players are aware of the club’s weather policy. Otherwise, you may be checking another policy—your insurance policy—to determine if your defense limits are enough to cover court costs.

Unfortunately, there isn’t a completely surefire way to manage the hazard of lightning. However, safety is the issue, and common sense and caution should prevail. Stay safe out on the course—you don’t want your round of golf to end up as a shocking event.

¹ www.golfersmatch.com

² Paula Moore, *Denver Business Journal*, July 2000

³ www.thorguard.com