

# HOUSE . . . . . No. 87

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## The Commonwealth of Massachusetts

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DEPARTMENT OF PUBLIC UTILITIES,  
STATE HOUSE, BOSTON, December 3, 1930.

*To the General Court of Massachusetts.*

In accordance with the provisions of section 33 of chapter 30 of the General Laws, as amended by section 43 of chapter 362 of the Acts of 1923, copy of the recommendations for legislation to be contained in the annual report of this Department (Pub. Doc. No. 14) is submitted herewith, together with a draft of a bill embodying the legislation recommended. This draft has been submitted to the counsel for the House of Representatives, as required by law.

HENRY C. ATTWILL,  
*Chairman.*

## RECOMMENDATIONS.

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At the suggestion of the Director of the Division of Smoke Inspection, we recommend three amendments to chapter 651 of the Acts of 1910, as amended. The purpose of these amendments is, first, to place an additional restraint on the emission of smoke from stacks defined under said act as falling under Class II. The present act authorizes a greater emission of dense smoke by stacks falling under Class II than from those falling under either Class I or Class III, as defined by the act. We know of no sound reason why this should be so. The second amendment makes provision to give the department a greater latitude in the service of an order made by it under the provisions of the act. At present it is provided that the service must be made within twenty-four hours of the order. It occurs at times that the provision is difficult to comply with, if not impossible. Consequently, it is suggested that the provision for service within twenty-four hours be eliminated, and a provision that the service shall be made as soon as practicable be inserted in place thereof. The third amendment is to make the emission of smoke a criminal offense after service of the order instead of after the order, as at present.

Except for recommendations for legislation which the department will make in response to chapter 38 of the Resolves of 1930, providing that the department shall prepare and submit to the general court a revision and modification of the laws affecting motor vehicles carrying passengers for hire, and to chapter 56 of the Resolves of 1930, providing for a survey and study by the department of the laws of the Commonwealth relating to the promotion and sale of securities, the

department makes no recommendations for legislation during the current year. However, under this subject we think we ought to state that we are still of the opinion that chapter 379 of the Acts of 1929, entitled "An Act concerning Municipal Lighting Plants and the Powers of the Department of Public Utilities relating Thereto," does not meet with the entire approval of the department. We feel it would have been much better if the act as it originally passed the House had been enacted into law. In its present form doubtful questions of law may arise, and in some situations it will be found unworkable. We have, however, felt it impolitic this year to suggest amendments to meet our views, as the subject has been considered by the Legislature for two successive years, and our views have not met with full approval. We are also influenced in our attitude by the feeling that, with the slight chance of approval of our views, it is unwise to press them in this time of financial depression. Time, we think, will vindicate our views in relation to this act, and we believe that the objectionable provisions thereof will then be corrected. Accordingly, we submit no bill to amend said chapter 379.

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Accompanying the recommendations of the Department of Public Utilities. Public Health.

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## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-One.

An Act relative to the Emission of Smoke in the Metropolitan District.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section two of chapter six hundred and  
2 fifty-one of the acts of nineteen hundred and ten is  
3 hereby amended by striking out, in the fourth, fifth  
4 and sixth lines of the first paragraph, the words "or  
5 of a degree equal to No. 3 of the chart or greater, for  
6 more than three minutes in any one hour from  
7 stacks of Class II;" and inserting in place thereof  
8 the words: — or of a degree equal to No. 2 of the  
9 chart or greater, for more than ten minutes in any  
10 one hour, but not exceeding during said ten minutes  
11 a degree equal to No. 3 of the chart or greater, for  
12 more than three minutes from stacks of Class II, —  
13 so as to read as follows: — *Section 2.* The emission  
14 of smoke of a degree of darkness or density equal  
15 to No. 2 of the chart or greater, for more than six  
16 minutes in any one hour from stacks of Class I;  
17 or of a degree equal to No. 2 of the chart or greater,  
18 for more than ten minutes in any one hour, but

19 not exceeding during said ten minutes a degree  
20 equal to No. 3 of the chart or greater, for more than  
21 three minutes from stacks of Class II; or of a de-  
22 gree equal to No. 2 of the chart or greater, for more  
23 than twenty-five minutes in any one hour, but not  
24 exceeding during said twenty-five minutes a degree  
25 equal to No. 3 of the chart or greater for more than  
26 five minutes from stacks of Class III; or of a degree  
27 equal no No. 3 of the chart or greater for more  
28 than three minutes in any one hour from stacks of  
29 Class IV; for more than five minutes in any one  
30 hour from stacks of Class V; and for more than  
31 twenty seconds in any one period of five minutes  
32 from stacks of Class VI, is hereby prohibited.

1 SECTION 2. Section six of chapter six hundred and  
2 fifty-one of the acts of nineteen hundred and ten is  
3 hereby amended by striking out, in the fourteenth  
4 line, the words "within twenty-four hours" and in-  
5 serting in place thereof the words: — as soon as is  
6 practicable, — so as to read as follows: — *Section 6.*  
7 The board shall have power, after notice and a  
8 hearing, to order any person or corporation having  
9 control of the operation of the stack, other than an  
10 employee, to stop or abate the emission of smoke in  
11 violation of this act. Such notice shall be in writ-  
12 ing and may be served personally upon such person  
13 or corporation, or duly authorized agent by any per-  
14 son authorized by the board to make such service,  
15 and in the manner provided by the laws of the com-  
16 monwealth for the service of writs returnable to the  
17 superior court. Such notice shall be served at least  
18 forty-eight hours before the time fixed for the hear-  
19 ing, and a copy of the order or decree of the board

20 shall in like manner be served upon such person or  
21 corporation or duly authorized agent as soon as is  
22 practicable after the same shall be made by the  
23 board. In the event of violation, a copy of the ob-  
24 servation made in accordance with section four shall  
25 be mailed within twenty-four hours to the person or  
26 corporation having control of the operation of the  
27 stack, and an additional copy shall be delivered  
28 upon the premises, as soon as is practicable, to the  
29 employee having charge of the stack, unless it is  
30 otherwise requested in writing by any such person  
31 or corporation.

1 SECTION 3. Section seven of chapter six hundred  
2 and fifty-one of the acts of nineteen hundred and  
3 ten is hereby amended by inserting after the word  
4 "board" in the second line thereof the words:—  
5 after service thereof upon him or it,— so as to read  
6 as follows:—*Section 7.* Any person or corporation  
7 violating any order of the board after service thereof  
8 upon him or it shall be guilty of a misdemeanor and  
9 may be punished by a fine of not less than ten nor  
10 more than fifty dollars for the first offence, and not  
11 less than twenty nor more than one hundred dollars  
12 for every succeeding offence. No person or corpora-  
13 tion shall be deemed guilty in accordance herewith,  
14 unless the observations, used as evidence at the trial,  
15 shall be made as provided in section four. The su-  
16 perior court sitting in equity, on petition of the  
17 board or any person authorized by the board, shall  
18 have jurisdiction to restrain violations of this act  
19 during the prosecution of any proceeding at law for  
20 the enforcement of any order of the board.



