

HOUSE No. 510

By Mr. Kimball of Springfield, petition of Philip K. Kimball for legislation relative to gifts of securities to minors. Legal Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Seven.

AN ACT RELATIVE TO GIFTS OF SECURITIES TO MINORS.

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

1 The General Laws are hereby amended by inserting after
2 chapter 110A the following chapter:—

3 CHAPTER 110B.

4 GIFTS OF SECURITIES TO MINORS.

5 *Section 1.* The following words as used in this chapter,
6 unless the context otherwise requires, shall have the follow-
7 ing meanings:—

8 “Security” means any note, stock, bond, debenture, evi-
9 dence of indebtedness, collateral trust certificate, transfer-
10 able share, voting trust certificate, certificate of deposit for
11 a security, or, in general, any interest or instrument com-
12 monly known as a security, or any certificate of interest or
13 participation in, temporary or interim certificate for, or war-
14 rant or right to subscribe to or purchase, any of the foregoing.

15 A security is in “registered form” when its terms specify
16 a person entitled to the security or to the rights it evidences
17 and specify that its transfer may be registered upon books
18 maintained for that purpose by or on behalf of an issuer.

19 A security is in "bearer form" when it runs to bearer ac-
20 cording to its terms and not by reason of any indorsement.

21 The term "member of the minor's family" as used in this
22 section means the minor's parents, grandparents, brothers,
23 sisters, uncles and aunts, whether of the whole blood or the
24 half blood, or by or through legal adoption.

25 "Legal representative" means, as may be appropriate in
26 the circumstances, the executor, administrator, general
27 guardian or committee (conservator) of the property of the
28 person to whose legal representative reference is made.

29 "Custodian" means custodian as used in section two.

30 "Minor" means any person who has not attained the age of
31 twenty-one years.

32 *Section 2.* Any adult person may make a gift of securities
33 to a minor in the following manner: —

34 (a) Securities, if in registered form, shall be registered by
35 the donor in his own name or in the name of any adult mem-
36 ber of the minor's family or in the name of any guardian
37 of the minor, followed by the words "as custodian, for
38, a minor, pursuant to chapter
(Name of minor)

39 one hundred and ten B of the General Laws," and the se-
40 curities shall be delivered to the person in whose name they
41 are thus registered as custodian. If the securities are thus
42 registered in the name of the donor as custodian, such regis-
43 tration shall of itself constitute the delivery required by this
44 section.

45 (b) Securities, if in bearer form, shall be delivered by the
46 donor to any adult member of the minor's family, other than
47 the donor, or to any guardian of the minor, accompanied by
48 a deed of gift duly acknowledged in substantially the fol-
49 lowing form, signed by the donor and the person designated
50 therein as custodian:

DEED OF GIFT PURSUANT TO CHAPTER ONE HUNDRED AND TEN B
OF THE GENERAL LAWS.

I,do hereby
(Name of donor)
deliver to
(Name of custodian)
as custodian for
(Name of minor)
a minor, pursuant to chapter one hundred and ten B of the General Laws

the following security(ies): Principal amount \$.....
of the....., Serial number of security.....
(Description of security)

or

Certificate No....., representing.....shares of
the.....stock of.....
(Class or type of stock) (Name of company)

.....
(Signature of donor)

I,.....do hereby acknowledge
(Name of custodian)
receipt of the above described security(ies).

.....
(Signature of custodian)

Dated.....

51 (c) A gift made in the manner prescribed in this section
52 shall be irrevocable and shall convey to the minor inde-
53 feasibly vested legal title to the securities thus delivered,
54 but no guardian of the person or property of the minor shall
55 have any rights, duties or authority with respect to any
56 property held at any time by the custodian under the au-
57 thority of this section unless said guardian shall himself be
58 or become custodian in accordance herewith.

59 *Section 3.* (a) The custodian shall hold, manage, invest
60 and reinvest the property held by him as custodian, includ-
61 ing any unexpended income therefrom, as hereinafter pro-
62 vided. He shall collect the income therefrom, as hereinafter
63 provided, and apply so much or the whole thereof, and so
64 much or the whole of the other property held by him as
65 custodian, as he may deem advisable for the support, main-
66 tenance, education and general use and benefit of the minor,
67 in such manner, at such time or times, and to such extent as
68 the custodian in his absolute discretion may deem suitable
69 and proper, without court order, without regard to the duty
70 of any person to support the minor, and without regard to
71 any other funds which may be applicable or available for the
72 purpose. To the extent that property held by the custodian
73 and the income thereof is not so expended, it shall be de-
74 livered or paid over to the minor upon the minor's attaining
75 the age of twenty-one years, and in the event that the minor
76 dies before attaining the age of twenty-one years it shall be
77 delivered or paid over to the estate of the minor.

78 (b) (1) The custodian may sell, exchange, convert or
79 otherwise dispose of any and all of the securities or other
80 property held by him in such manner and at such time or
81 times, for such prices and upon such terms as he may deem
82 advisable.

83 (2) He shall have the power in his sole and absolute dis-
84 cretion to retain any and all securities delivered to him
85 within the meaning and under the authority of section one
86 to eight, inclusive, without reference to any other statutes
87 relating to permissible investments by fiduciaries.

88 (3) He shall invest the minor's property in such securities
89 as would be acquired by prudent men of discretion and in-
90 telligence who are seeking a reasonable income and the pres-
91 ervation of their capital without reference to any other stat-
92 utes relating to permissible investments by fiduciaries or
93 hold part or all of the same in one or more bank accounts
94 in his name as such custodian.

95 (4) He may vote in person or by general or limited proxy
96 with respect to any securities held by him.

97 (5) He may consent directly or through a committee or
98 other agent to the reorganization, consolidation, dissolution
99 or liquidation of any corporations, the securities of which
100 may be held by him, or to the sale, lease, pledge or mortgage
101 of any property by or to any such corporation.

102 (c) In addition to the rights, powers and duties set out in
103 subparagraphs (a) and (b) with respect to any securities or
104 other property held by the custodian, the custodian, in his
105 name as such custodian, shall have all the powers of man-
106 agement which a guardian of the estate of the minor would
107 have under chapter two hundred and one.

108 (d) (1) The custodian may execute and deliver any and
109 all instruments in writing which he may deem advisable to
110 carry out his rights, powers and duties as custodian. No
111 issuer of securities, transfer agent, registrar or bank or other
112 person acting on the instructions of any person purporting
113 to be a custodian or donor shall be responsible for determin-
114 ing whether any person has been duly designated as a cus-
115 todian under this section, or whether any purchase, sale or
116 transfer to or by any person as custodian is in accordance

117 with or authorized by this section, or shall be obligated to
118 inquire into the validity under this section of any instrument
119 or instructions executed or given by a person purporting to
120 act as custodian or donor, or be bound to see to the applica-
121 tion by any person purporting to act as custodian of any
122 money or other property paid or delivered to him.

123 (2) All registered securities held by the custodian from
124 time to time shall be registered in his name followed by the
125 words "as custodian for....., a minor, pur-
(Name of minor)

126 suant to sections one to eight, inclusive." All other prop-
127 erty held by the custodian for the minor pursuant to the
128 authority of said sections one to eight, inclusive, shall be
129 kept separate and distinct from the custodian's own personal
130 funds and property, and shall be maintained at all times in
131 such a manner as to identify it clearly as the minor's property
132 held by the custodian pursuant to such authority.

133 *Section 4.* A person acting as custodian, other than a
134 guardian of the property of the minor, shall receive no com-
135 pensation for his services, but shall be entitled to reimburse-
136 ment from the property held by him as custodian for the
137 reasonable expenses incurred in the performance of his du-
138 ties as custodian. A guardian of the property of the minor,
139 when acting as custodian under the authority of this sec-
140 tion, may receive such additional compensation for his serv-
141 ices as guardian as he would be entitled to receive if the
142 property held by him as custodian hereunder were held by
143 him in his capacity as guardian, in addition to the other prop-
144 erty of the minor held by him in that capacity.

145 A custodian who is not compensated for acting as such
146 shall be under no obligation to give bond for the faithful per-
147 formance of his duties and shall not be liable for any losses
148 to the property held by him except as are the result of his
149 bad faith or intentional wrongdoing or result from his invest-
150 ing the minor's property in a manner other than as prescribed
151 in section three.

152 *Section 5.* A custodian may resign by executing and duly
153 acknowledging an instrument of resignation designating a
154 successor custodian who is an adult member of the minor's
155 family or a guardian of the minor, delivering such instru-

156 ment to the successor custodian, causing securities, if in
157 registered form, to be registered in the name of the successor
158 custodian as such, and delivering to the successor custodian
159 such securities so registered together with all other property
160 held by him as custodian. In the alternative, the custodian
161 may petition the probate court for permission to resign and
162 for the appointment of a successor custodian.

163 *Section 6.* In the event of the death or incapacity of the
164 custodian before the minor attains the age of twenty-one
165 years —

166 (a) If there is a duly appointed and acting general guardian
167 of the property of the minor, he shall become the successor
168 custodian.

169 (b) If there is no duly appointed and acting general
170 guardian of the property of the minor.

171 (1) If the minor has attained the age of fourteen years,
172 he may designate in writing an adult member of the minor's
173 family or a guardian of the minor as successor custodian.

174 (2) If the minor has not attained the age of fourteen years,
175 the successor custodian shall be the adult member of the
176 minor's family or a guardian of the minor, designated by
177 will or duly acknowledged instrument of appointment exe-
178 cuted by the last acting custodian. If no such designation
179 is made by the last acting custodian, his legal representative
180 may designate in writing an adult member of the minor's
181 family or a guardian of the minor a successor custodian.

182 *Section 7.* At any time or times when there is no duly act-
183 ing custodian, the legal representative of the last acting cus-
184 todian, any adult member of the minor's family or a guardian
185 of the minor may petition the probate court for the appoint-
186 ment of a successor custodian.

187 A successor custodian shall have all the rights, powers and
188 duties of a custodian as provided by sections one to eight,
189 inclusive.

190 *Section 8.* The custodian shall not be required to account
191 to the minor or to any other person for his acts and proceed-
192 ings unless the minor, a parent of the minor, the legal repre-
193 sentative of the minor, or a successor custodian shall peti-
194 tion the probate court for such an accounting no later than

195 one year after the minor attains the age of twenty-one years
196 or dies before attaining the age of twenty-one years.

197 *Section 9.* A gift made pursuant to the authority of sec-
198 tions one to eight, inclusive, to a guardian of the minor as
199 custodian is deemed to have satisfied the requirements of
200 delivery if the person to whom delivery is made is either
201 guardian of the person or guardian of the property of the
202 minor, duly appointed pursuant to chapter two hundred and
203 one, or pursuant to the laws of the state, territory or country
204 where the minor was domiciled at the time of the delivery
205 of the gift.

206 *Section 10.* This chapter shall not be construed as provid-
207 ing an exclusive method for making gifts of securities to
208 minors.

The following table shows the number of persons who were employed in the various occupations in the city of New York during the year 1900. The total number of persons employed was 1,000,000. The occupations are classified into three groups: manufacturing, commerce, and services. The number of persons employed in each occupation is given in the following table:

Occupation	Number of Persons
Manufacturing	400,000
Commerce	300,000
Services	300,000
Total	1,000,000

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