

# HOUSE . . . . No. 2897

---

---

## The Commonwealth of Massachusetts

---

HOUSE OF REPRESENTATIVES, October 22, 1941.

The committee on Military Affairs and Public Safety, to whom was referred the message from His Excellency the Governor recommending that the Massachusetts Committee on Public Safety be given legal standing and its powers and duties more accurately defined, that local committees thereof be given authority to practice methods of civilian defense, that provision be made for more effective co-ordination of fire and police protection in special emergencies and placing certain powers in the office of the Governor in case of declaration of war (House, No. 2856), report the accompanying bill (House, No. 2897).

For the committee,

ENRICO CAPPUCCI.

Representative DOOLEY of Taunton dissenting.

## The Commonwealth of Massachusetts

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

### AN ACT TO PROVIDE FOR THE SAFETY OF THE COMMONWEALTH IN TIME OF MILITARY EMERGENCY.

1    *Whereas*, The deferred operation of this act would  
2 tend to defeat its purpose, which is immediate further  
3 preparation for the defense of the commonwealth,  
4 therefore it is hereby declared to be an emergency  
5 law, necessary for the immediate preservation of the  
6 public safety.

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

#### PART I.

##### MASSACHUSETTS EMERGENCY COMMISSION.

1    SECTION 1. The governor may appoint an unpaid  
2 commission to be known as the Massachusetts emer-  
3 gency commission. Said commission shall include such  
4 department heads and other officers of the common-  
5 wealth as the governor may deem necessary, and the  
6 executive director of the governor's committee on  
7 public safety. The governor shall appoint the chair-  
8 man of said commission to serve during his pleasure.  
9 Said commission shall be in the executive branch of  
10 the government, shall serve under the governor and  
11 shall be subject to his supervision. Said commission  
12 shall assist the governor in carrying out and enforcing

13 the provisions of this act and the rules and regulations  
14 made thereunder.

1 SECTION 2. Said commission may employ and fix  
2 the compensation of its executive officers, and such  
3 technical, clerical, stenographic and other personnel  
4 as it deems necessary to carry out the purposes of this  
5 act.

1 SECTION 3. The commission may prescribe dis-  
2 tinguishing marks or insignia to distinguish persons  
3 engaged in civilian defense activities, and may desig-  
4 nate by rule or otherwise what persons may wear  
5 such marks or insignia. No such marks or insignia  
6 shall in any way conflict with or so resemble as to be  
7 confused with or mistaken for military or naval or  
8 police or fire department uniforms or badges. Any  
9 person who without authority wears any such marks  
10 or insignia or any simulation thereof or ones designed  
11 to be confused therewith shall be punished by a fine  
12 of not less than five nor more than one hundred  
13 dollars.

1 SECTION 4. In order to train the civilian popula-  
2 tion against air raids and other vicissitudes of modern  
3 warfare, the mayor and city council of cities and the  
4 selectmen of towns may at such time or times as  
5 may be approved by said governor's committee on  
6 public safety, and pursuant to such rules and regu-  
7 lations as it may from time to time issue, conduct  
8 practice blackouts, air raid warnings and other civilian  
9 defense activities. The plan and orders for any such  
10 practice activity shall be submitted to the said com-  
11 mittee for its approval and, as approved or modified

12 by said committee, shall be prominently published  
13 in the particular city or town at least seven days be-  
14 fore the practice activity is to take place. Any per-  
15 son who shall wilfully violate any order approved and  
16 published as aforesaid shall be punished by a fine of  
17 not less than five nor more than one hundred dollars.

1 SECTION 5. (a) The mayor and city council in  
2 cities and the selectmen in towns, or such other per-  
3 sons or bodies as are authorized under existing laws  
4 to appoint firemen or policemen, may appoint, train  
5 and equip volunteer, unpaid auxiliary firemen and  
6 auxiliary police and may establish and equip such  
7 other volunteer, unpaid public protection units as  
8 may be approved by said committee and may appoint  
9 and train their members. Chapters thirty-one, thirty-  
10 two and one hundred and fifty-two of the General  
11 Laws shall not apply to such persons.

12 (b) Cities and towns may by ordinance or by-law,  
13 or by vote of the aldermen, selectmen, or board exer-  
14 cising similar powers, authorize their respective police  
15 departments to go to aid another city or town in the  
16 suppression of riots or other forms of violence therein,  
17 and, while in the performance of their duties in ex-  
18 tending such aid, the members of such departments  
19 shall have the same powers, duties, immunities and  
20 privileges as if performing the same within their re-  
21 spective cities or towns. Any such ordinance, by-  
22 law or vote may authorize the head of the police de-  
23 partment to extend such aid subject to such conditions  
24 and restrictions as may be prescribed therein. Any  
25 city or town aided under and in accordance with this  
26 section may compensate any city or town rendering  
27 aid as aforesaid for the whole or any part of any dam-

28 age to its property sustained in the course of render-  
29 ing the same and may reimburse it in whole or in part  
30 for any payments lawfully made to any member of  
31 its police department or to his widow or other de-  
32 pendants on account of injuries or death suffered by  
33 him in the course of rendering aid as aforesaid or of  
34 death resulting from such injuries.

35 (c) The mayor of any city or selectmen of any  
36 town shall, after the issuing of the proclamation pro-  
37 vided for in section six (a), order such portion of their  
38 police and fire departments, with their normal equip-  
39 ment, as the governor may request, for service in any  
40 part of the commonwealth where the governor in his  
41 discretion may deem it necessary for the protection  
42 of life and property. When on such service, police  
43 officers and firemen shall have the same powers, duties,  
44 immunities and privileges as if they were performing  
45 their duties within their respective cities or towns.  
46 The commonwealth shall compensate any city or  
47 town for damage to its property sustained in such  
48 service and shall reimburse it for any payments law-  
49 fully made by it to any member of its police or fire  
50 department or to his widow or other dependents for  
51 injuries sustained by him in such service or of death  
52 resulting from such injuries.

## PART II.

### EMERGENCY POWERS OF THE GOVERNOR.

1 SECTION 6. (a) If and when the Congress of the  
2 United States shall declare war, or if and when the  
3 President of the United States shall by proclamation  
4 or otherwise inform the governor that the peace and  
5 security of the commonwealth are endangered by bel-

6 ligerent acts of any enemy of the United States or  
7 of the commonwealth or by the imminent threat  
8 thereof, the governor may, with the advice and con-  
9 sent of the council, issue a proclamation or proclama-  
10 tions setting forth a state of emergency.

11 (b) Whenever the governor has proclaimed the  
12 existence of such a state of emergency, he may em-  
13 ploy every agency and all members of every depart-  
14 ment and division of the government of the common-  
15 wealth to protect the lives and property of its citizens  
16 and to enforce its laws. Any members of any such  
17 department or division so employed shall be entitled  
18 to the protection of existing applicable provisions of  
19 law relative to any type of service of the common-  
20 wealth in emergencies.

21 (c) After such proclamation has been made, the  
22 governor may, in the event of any disaster or short-  
23 age making such action necessary for the protection  
24 of the public and with the approval of the council,  
25 take possession: (1) of any land or buildings, ma-  
26 chinery or equipment; (2) of any horses, vehicles,  
27 motor vehicles, aeroplanes, ships, boats or any other  
28 means of conveyance, rolling stock of steam or elec-  
29 tric railroads or of street railways; (3) of any cattle,  
30 poultry and any provisions for man or beast, and any  
31 fuel, gasoline or other means of propulsion which may  
32 be necessary or convenient for the use of the military  
33 or naval forces of the commonwealth or of the United  
34 States, or for the better protection or welfare of the  
35 commonwealth or its inhabitants. He may use and  
36 employ all property of which possession is so taken,  
37 for such times and in such manner as he shall deem  
38 for the interests of the commonwealth or its inhabit-  
39 ants, and may in particular, when in his opinion the

40 public exigency so requires, sell or distribute gratui-  
41 tously to or among any or all of the inhabitants of the  
42 commonwealth anything taken under clause (3) of  
43 this paragraph. He shall, with the approval of the  
44 council, award reasonable compensation to the owners  
45 of any property of which he may take possession under  
46 the provisions of this section, and for its use, and for  
47 any injury thereto or destruction thereof caused by  
48 such use.

49 (d) Any owner of property of which possession has  
50 been taken under paragraph (c), to whom no award  
51 has been made, or who is dissatisfied with the amount  
52 awarded him by the governor and council as com-  
53 pensation, may file a petition in the superior court to  
54 have the amount to which he is entitled by way of  
55 damages determined. Either the petitioner or the  
56 commonwealth shall have the right to have the  
57 amount of such damages assessed by a jury in the  
58 said court upon making claim in such manner as may  
59 be provided by law or by the rules of said court.

60 (e) Such petition may be filed in the county in  
61 which the petitioner lives or has his usual place of  
62 business, if the petitioner either lives or has a usual  
63 place of business in the commonwealth, otherwise in  
64 the county of Suffolk. The petition shall be brought  
65 within one year after the date when possession of the  
66 property was taken under paragraph (c), except that  
67 if the owner of the property is in the military or naval  
68 service of the United States at the time of the taking,  
69 it shall be brought within three years after said date.  
70 Except as is otherwise provided herein, such petition  
71 shall be heard and determined in accordance with the  
72 provisions of chapter two hundred and fifty-eight of  
73 the General Laws.

74 (f) Upon such petition, full damages shall be  
75 awarded whether or not the same had fully accrued  
76 at the time of the filing of the petition, and, whenever  
77 necessary, the hearing on the petition shall, on the  
78 application of either the petitioner or the common-  
79 wealth, be continued for assessment of damages until  
80 the same are fully ascertained.

1 SECTION 7. The governor shall have full power and  
2 authority to co-operate with the federal authorities  
3 and with the governors of other states in matters per-  
4 taining to the common defense or to the common wel-  
5 fare, and also to so co-operate with the military and  
6 naval forces of the United States and of the other  
7 states, and to take any measures which he may deem  
8 proper to carry into effect any request of the Presi-  
9 dent of the United States for action looking to the  
10 national defense or to the public safety.

1 SECTION 8. (a) After the proclamation provided  
2 for in section six (a) shall have been made, the gover-  
3 nor may, whenever he considers that the public  
4 safety so requires, make such orders or regulations  
5 for air raid precautions and for the preservation of  
6 life and property as he may determine to be advisable,  
7 and may appoint such personnel as he deems neces-  
8 sary to carry out said orders and regulations.

9 (b) So far as necessary to insure that blackouts or  
10 other civilian defense measures established by the  
11 governor under any regulations provided by him shall  
12 be effective and complete, the provisions of orders  
13 made under this section during the period for which  
14 they are in force shall supersede any laws, rules, regu-  
15 lations, ordinances or by-laws inconsistent therewith.

16 Any person legally authorized to enforce such orders  
17 or regulations may call upon any police officer for  
18 assistance in the enforcement thereof. In order to  
19 render any orders or regulations established under  
20 this section effective, and in order more fully to pro-  
21 vide for the protection of life and property within the  
22 commonwealth, the governor may in his discretion  
23 take over the control of public property, real or per-  
24 sonal, during the periods of such blackouts, and may  
25 delegate the power to take such control to any persons  
26 designated by him in such orders or regulations.

27 (c) Any violation of any order or regulation made  
28 under this section shall be punished by imprisonment  
29 for not more than one year, or by a fine of not more  
30 than five hundred dollars, or both.

1 SECTION 9. If any part, subdivision or section of  
2 this act shall be declared unconstitutional, the va-  
3 lidity of the remaining parts thereof shall not be  
4 affected thereby.

1 SECTION 10. This act may be cited as the Com-  
2 monwealth Emergency Defense Act of 1941.

1 SECTION 11. This act, except as otherwise pro-  
2 vided herein, shall remain in force until the governor,  
3 with the advice and consent of the council, proclaims  
4 that the emergency is ended, or until the expiration  
5 of two years from the date of its approval by the  
6 governor, whichever first shall happen; provided  
7 however, that the emergency powers given to the  
8 governor by sections six and eight under any procla-  
9 mation shall expire ninety days after the making of  
10 such proclamation unless before that time the general  
11 court has ratified and approved the same.





