

HOUSE No. 1493

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 5, 1943.

The committee on Military Affairs and Public Safety, to whom were referred the petition (accompanied by bill, House, No. 843) of James W. Spring and others for certain amendments of the laws relative to the militia of the Commonwealth, the petition (accompanied by bill, House, No. 996) of F. Wadsworth Busk and others relative to the acquisition of motor vehicles by the military division of the Executive Department and to the settlement of claims against the Commonwealth arising out of the operation of such vehicles, and the petition (accompanied by bill, House, No. 1028) of F. Wadsworth Busk and others for an amendment of the law relative to indemnification of certain public employees for damages sustained through operation of publicly owned vehicles, report the accompanying bill (House, No. 1493).

For the committee,

DANA T. GALLUP.

The Commonwealth of Massachusetts

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

AN ACT TO PROVIDE FOR THE ACQUIRING OF MOTOR VEHICLES OR FOR OBTAINING THE USE THEREOF BY THE MILITARY DIVISION OF THE EXECUTIVE DEPARTMENT AND FOR THE SETTLEMENT OF CERTAIN CLAIMS AGAINST THE COMMONWEALTH ARISING OUT OF THE OPERATION OF MOTOR VEHICLES.

1 *Whereas*, In the existing state of war public safety
2 and convenience require a just, adequate and prompt
3 method of acquiring and of operating motor vehicles
4 by the military forces of the commonwealth and of
5 disposing of claims against the commonwealth
6 caused by such operation, and the deferred opera-
7 tion of this act would tend to delay and in part to
8 defeat that purpose, therefore it is hereby declared
9 to be an emergency law, necessary for the immediate
10 protection and preservation of the public safety
11 and convenience.

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

1 SECTION 1. Chapter thirty-three of the General
2 Laws is hereby amended by inserting after section
3 fifty-five, as appearing in section one of chapter
4 four hundred and twenty-five of the acts of nineteen

5 hundred and thirty-nine, the following eight new
6 sections: —

7 *Section 55A.* In the event that an enemy which
8 is at war with the United States shall commence or
9 threaten operations to endanger the peace or safety
10 of this commonwealth, or in the event of tumult,
11 riot, mob or catastrophe within the purview of
12 section eighteen or section nineteen, or in the event
13 that any unit of the military forces of the common-
14 wealth shall, by order of the commander-in-chief,
15 be directed or authorized to participate in or
16 engage in, any military training, exercise or duty
17 in which the use of motor vehicles in excess of the
18 number issued to such unit by the state quarter-
19 master, is authorized or directed in writing, the
20 adjutant general, in the name and on behalf of the
21 commonwealth, may, under orders issued by the
22 commander-in-chief, accept the gift or loan of, or
23 the grant of the temporary right to the use and
24 control of, or may hire, or purchase such motor
25 vehicle for military use.

26 *Section 55B.* Claims against the commonwealth
27 for the destruction of or damage to any motor
28 vehicle so given, loaned or hired, or for any damage
29 to property or any injury (including death resulting
30 therefrom) to any person caused by any motor
31 vehicle during any such period of use, shall be
32 referred to a board established under a second para-
33 graph of section fifty-five C, and all pertinent provi-
34 sions of said paragraph shall apply to the settlement
35 of such claims. The commonwealth shall not be
36 liable for the depreciation of any motor vehicle so
37 acquired.

38 *Section 55C.* An officer, or soldier of the military

39 forces of the commonwealth, a person not a member
40 of the military forces of the commonwealth but
41 who is the owner, or is employed by the owner, of a
42 motor vehicle lawfully loaned to or hired by the
43 commonwealth under section fifty-five A and whose
44 services are loaned or given to the commonwealth
45 for any purpose set forth in said section, or a person
46 rendering assistance to any of the military forces of
47 the commonwealth under any provision of said
48 section 55A by request or order of a responsible
49 officer thereof, and who by reason of such voluntary
50 action or employment or assistance and without
51 fault or neglect on his part shall receive any injury,
52 be disabled, or contract any sickness or disease,
53 incapacitating him from pursuing his usual business
54 or occupation shall, during the period of such in-
55 capacity, receive compensation to be fixed by a
56 board appointed as herein provided to inquire into
57 his claim, the amount of such compensation not to
58 exceed, in the case of an officer or soldier, special
59 duty pay plus ration allowance provided by this
60 chapter or, in the case of a person not a member of
61 the military forces of the commonwealth, three
62 dollars per day and in addition, in each instance,
63 actual necessary expenses for medical services and
64 care, medicines and hospitalization.

65 In case of death resulting from such injury, sick-
66 ness or disease, compensation shall be paid to the
67 decedent's dependents as determined in accordance
68 with section thirty-two and clause (3) of section
69 one, both of chapter one hundred and fifty-two, in
70 the amount provided by, and otherwise subject to,
71 section thirty-one of said chapter; provided, that
72 compensation to such dependents other than widows

73 and children shall be based on the compensation
74 provided in the preceding sentence and that, for the
75 purposes thereof, said board shall exercise all the
76 powers given by said chapter one hundred and
77 fifty-two to the department of industrial accidents.
78 All claims arising under this section and claims
79 referred to in the first sentence of section fifty-five B
80 shall be inquired into by a board of three officers,
81 at least one of whom shall be a medical officer,
82 appointed by the commander-in-chief. The board
83 shall have the same power to take evidence, ad-
84 minister oaths, issue subpoenas and compel witnesses
85 to attend and testify and produce books and papers,
86 and to punish their failure to do so, as is possessed
87 by a general court-martial. The findings of the
88 board shall be subject to the approval of the com-
89 mander-in-chief. The amount so found due and
90 so approved shall be a charge against the common-
91 wealth, and paid in the same manner as other military
92 accounts.

93 *Section 55D.* If any person makes a claim against
94 the commonwealth by giving a notice as authorized
95 by section fifty-five, he shall be deemed thereby to
96 have waived any and all right or remedy against
97 the commonwealth relative to the subject matter of
98 such claim to which he would otherwise be entitled
99 by law.

100 *Section 55E.* Where the damage or injury for
101 which compensation is claimed under sections fifty-
102 five B or fifty-five C was caused under circumstances
103 creating a legal liability in some person other than
104 the commonwealth to pay damages in respect thereof,
105 the commonwealth may enforce, in the name of the
106 claimant or in its own name and for its own benefit,

107 the liability of such other person. The sum recovered
108 shall be for the benefit of the commonwealth unless
109 such sum is greater than that paid by it to the
110 claimant, in which case four fifths of the excess
111 shall be paid to the claimant.

112 *Section 55F.* No person performing any services
113 under section fifty-five C shall, by reason of such
114 services, be deemed to be an employee of the com-
115 monwealth or, if not already an officer or soldier
116 of the military forces of the commonwealth, to be
117 such an officer or soldier, or to be entitled to receive
118 any pension or retirement allowance from the
119 commonwealth, or to have acquired any right,
120 or to be entitled to receive any other benefit or
121 compensation. Any person claiming the right to
122 receive compensation from the commonwealth under
123 any provision of said last mentioned section shall,
124 within thirty days after receiving an injury, or
125 contracting any sickness or disease, while performing
126 services referred to therein, give to the adjutant
127 general notice of his name and place of residence,
128 and the time, place and cause of such injury, sick-
129 ness or disease; provided, that such notice shall
130 not be invalid or insufficient solely by reason of
131 any inaccuracy in stating the name or place of
132 residence of the person receiving the injury, or
133 contracting sickness or disease, or the time, place
134 or cause of the injury, sickness or disease, if it is
135 shown that there was no intention to mislead and
136 the adjutant general was not in fact misled thereby.
137 Such notice shall be in writing, signed by the person
138 claiming compensation or by someone in his behalf.
139 If by reason of physical or mental incapacity it is
140 impossible for such person to give notice within the
141 time required, he may give it within thirty days

142 after such incapacity has been removed, and if he
143 dies within said thirty days his executor or ad-
144 ministrator may give the notice within thirty days
145 after his appointment. Any form of written com-
146 munication signed by the person, or by someone
147 in his behalf, or by his executor or administrator, or
148 by someone in behalf of such executor or administra-
149 tor, which contains the information that the person
150 was so injured, or so contracted sickness or disease,
151 giving the name and place of residence of such
152 person and the time, place and cause of the injury,
153 sickness or disease, shall be considered a sufficient
154 notice.

1 SECTION 2. Chapter ninety of the General Laws is
2 hereby amended by inserting after section five
3 thereof the following new section:—

4 *Section 5A.* The adjutant general, in behalf of
5 the military forces of the commonwealth, may make
6 application, in such form and containing such infor-
7 mation as the registrar of motor vehicles may deter-
8 mine, for a general distinguishing number or mark,
9 and the registrar shall issue to him a certificate of
10 registration. All motor vehicles under the control
11 of the military forces of the commonwealth shall be
12 regarded as registered under such general distin-
13 guishing number or mark, provided number plates
14 furnished as hereinafter provided are properly dis-
15 played thereon.

16 The adjutant general shall provide for use on the
17 vehicles aforesaid one pair of number plates for
18 each vehicle, which shall contain the general dis-
19 tinguishing number or mark assigned by the registrar
20 and be of such color and form as the registrar shall
21 approve. When a pair of number plates is issued

22 for use the adjutant general shall keep a record of
23 the plates so issued and report said issuance to the
24 registrar.

25 Whoever attaches a number plate or other dis-
26 tinctive mark as provided in this section to a motor
27 vehicle or trailer without being authorized so to do
28 shall be punished by a fine of not more than one
29 hundred dollars.

30 Whoever upon any way of the commonwealth
31 operates a motor vehicle to which number plates or
32 marks of distinction, as provided in this section,
33 have been attached without authority, or whoever
34 without authority operates a motor vehicle to which
35 such number plates or marks have been legally
36 attached, shall be punished by a fine of not less than
37 twenty-five nor more than fifty dollars.

1 SECTION 3. Section three B of chapter twelve of
2 the General Laws, as most recently amended by
3 section one of chapter two hundred and ninety-one
4 of the acts of nineteen hundred and thirty-four, is
5 hereby further amended by inserting after the first
6 paragraph the following new paragraph: —

7 For the purposes only of this section, an officer, or
8 soldier of the military forces of the commonwealth,
9 as defined in chapter thirty-three, shall while per-
10 forming any lawfully ordered military duty be deemed
11 to be an officer or employee of the commonwealth
12 and a motor vehicle given to the commonwealth,
13 loaned to it or hired or purchased by it under sec-
14 tion fifty-five A of chapter thirty-three shall, while
15 being used in the performance of any lawfully ordered
16 military duty, be deemed to be a motor vehicle
17 owned by the commonwealth.