
By Mr. Giles of Methuen, petition of Gordon E. Gaffney and another for defining further the liability of the Commonwealth for injuries sustained by persons traveling on state highways during construction or reconstruction thereof. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT DEFINING FURTHER THE LIABILITY OF THE COMMONWEALTH FOR INJURIES SUSTAINED BY PERSONS TRAVELING ON STATE HIGHWAYS DURING CONSTRUCTION OR RECONSTRUCTION THEREOF.

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

1 Chapter 81 of the General Laws is hereby amended
2 by striking out section 18, as appearing in the Tercen-
3 tenary Edition, and inserting in place thereof the follow-
4 ing section: —

5 *Section 18.* The commonwealth shall be liable for
6 injuries sustained by persons while traveling on state
7 highways, if the same are caused by defects within the
8 limits of the constructed traveled roadway, in the manner
9 and subject to the limitations, conditions and restrictions
10 specified in sections fifteen, eighteen and nineteen of
11 chapter eighty-four, except that the commonwealth shall
12 not be liable for injury sustained because of want of a
13 railing in or upon any state highway, or for injury sus-
14 tained upon the sidewalk of a state highway. The
15 commonwealth shall not be liable for injuries sustained
16 by persons traveling on state highways during the con-
17 struction, reconstruction or repair thereof, except that
18 if any section or portion of such highway which is being

19 constructed, reconstructed or repaired is opened to
20 travel by order of the department when construction
21 thereof is substantially complete but prior to acceptance
22 by the department, the commonwealth shall thereupon
23 be liable for any injury sustained by persons using such
24 highway or portions thereof due to defects arising out of
25 or in consequence of the condition of such highway or
26 section thereof, subject to the same limitations, condi-
27 tions and restrictions referred to in the preceding sen-
28 tence, unless such injury is caused by negligence on the
29 part of the contractor or his employees. The amount
30 which may be recovered for any such injury shall not
31 exceed one fifth of one per cent of the valuation of the
32 town in which the injury was received, nor shall it
33 exceed four thousand dollars. Notice of the injury as
34 required by law shall be given to a member of the
35 department.