

HOUSE No. 65

Accompanying the sixth recommendation of the Board of Trustees of the Boston Elevated Railway Company (House, No. 58). Judiciary (Joint).

The Commonwealth of Massachusetts

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

An Act providing for Notice to the Boston Elevated Railway Company of the Time, Place and Cause of Injuries to Persons or Property during Public Management and Operation of Said Company.

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

1 During the period of public management and opera-
2 tion of the Boston Elevated Railway Company, any
3 person sustaining any injury or damage to person or
4 property arising out of the operation or maintenance
5 of the properties or transportation system of said com-
6 pany, or the acts or omissions of its officers, agents or
7 employees, shall within sixty days thereafter give to
8 the Boston Elevated Railway Company notice of the
9 time, place and cause of such injury or damage; and
10 the giving of such notice shall be a condition precedent
11 to the bringing of any action, suit, or other proceeding
12 to recover for such injury or damage. Such notice
13 shall not be invalid or insufficient solely by reason of

14 any inaccuracy in stating the time, place or cause of
15 the injury or damage if it is shown that there was no
16 intention to mislead and that the Boston Elevated
17 Railway Company was not in fact misled thereby.
18 Such notice shall be in writing, signed by the person
19 injured or damaged or by some one in his behalf and
20 may be given to the president, vice president, clerk or
21 treasurer of said company.

22 If the person so injured or damaged dies within the
23 time required for giving the notice, his executor or
24 administrator may give such notice within sixty days
25 after his appointment. If by reason of physical or
26 mental incapacity it is impossible for the person so
27 injured or damaged to give the notice within the time
28 required, he may give it within twenty days after such
29 incapacity has been removed and if he dies within said
30 twenty days his executor or administrator may give
31 the notice within sixty days after his appointment.
32 Any form of written communication signed by the
33 person so injured or damaged or by some person in his
34 behalf or by his executor or administrator or by some
35 person in behalf of such executor or administrator
36 which contains the information that the person was so
37 injured or damaged, giving the time, place and cause
38 of the injury or damage, shall be considered a sufficient
39 notice.

40 The Boston Elevated Railway Company shall not
41 avail itself in defence of any omission to state in such
42 notice the time, place or cause of the injury or damage,
43 unless, within five days after receipt of the notice,
44 given within the time required by law and by an author-
45 ized person referring to the injury or damage sustained
46 and claiming damages therefor, the Boston Elevated
47 Railway Company or some person in its behalf notifies

48 in writing the person injured or damaged, his executor
49 or administrator or the person giving or serving such
50 notice in his behalf that his notice is insufficient and
51 requests forthwith a written notice in compliance with
52 law. If the person authorized to give such notice
53 within five days after the receipt of such request gives
54 a written notice complying with the law as to the time,
55 place and cause of injury or damage, such notice shall
56 have the effect of the original notice and shall be con-
57 sidered a part thereof.

