

# HOUSE . . . . No. 1243

---

---

## The Commonwealth of Massachusetts

---

HOUSE OF REPRESENTATIVES, March 7, 1933.

The joint committee on the Judiciary, to whom was referred the petition (accompanied by bill, House, No. 263) of James M. Curley, mayor of Boston, relative to notice required to be given to counties or municipalities in cases of defects in public ways, report the accompanying bill (House, No. 1243).

For the committee,

CHARLES J. INNES.

## The Commonwealth of Massachusetts

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

An Act relative to the Notice Required to be given to Counties, Cities and Towns in Cases of Defects in Public Ways.

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

1 SECTION 1. Chapter eighty-four of the General  
2 Laws, as appearing in the Tercentenary edition thereof,  
3 is hereby amended by striking out section eighteen and  
4 inserting in place thereof the following new section: —  
5 *Section 18.* A person so injured, shall, within ten  
6 days thereafter, if such defect or want of repair is  
7 caused by or consists in part of snow or ice or both,  
8 and in all other cases within thirty days thereafter,  
9 give to the county, city, town or person by law  
10 obliged to keep said way in repair, notice of the name and  
11 place of residence of the person injured, and the time,  
12 place and cause of said injury or damage; and if the  
13 said county, city, town or person does not pay the  
14 amount thereof, he may recover the same in an action  
15 of tort if brought within two years after the date of  
16 such injury or damage. Such notice shall not be  
17 invalid or insufficient solely by reason of any inac-  
18 curacy in stating the name, place of residence of the  
19 person injured, the time, place or cause of the injury,

20 if it is shown that there was no intention to mislead,  
21 and that the party entitled to notice was not in fact  
22 misled thereby.

1 SECTION 2. Section nineteen of said chapter eighty-  
2 four, is hereby amended by inserting after the word  
3 "the" the last time it appears in line sixteen, the  
4 words: — name and place of residence of the person  
5 injured and the, — so as to read as follows: — *Sec-*  
6 *tion 19.* Such notice shall be in writing, signed by  
7 the person injured or by some one in his behalf, and  
8 may be given, in the case of a county, to one of the  
9 county commissioners or the county treasurer; in the  
10 case of a city, to the mayor, the city clerk or treas-  
11 urer; in the case of a town, to one of the selectmen or to  
12 the town clerk or treasurer. If the person injured  
13 dies within the time required for giving the notice,  
14 his executor or administrator may give such notice  
15 within thirty days after his appointment. If by  
16 reason of physical or mental incapacity it is impossible  
17 for the person injured to give the notice within the  
18 time required, he may give it within ten days after  
19 such incapacity has been removed, and if he dies  
20 within said ten days his executor or administrator  
21 may give the notice within thirty days after his ap-  
22 pointment. Any form of written communication  
23 signed by the person so injured, or by some person in  
24 his behalf, or by his executor or administrator, or by  
25 some person in behalf of such executor or adminis-  
26 trator, which contains the information that the person  
27 was so injured, giving the name and place of residence  
28 of the person injured and the time, place and cause of  
29 the injury or damage, shall be considered a sufficient  
30 notice.

1 SECTION 3. Said chapter eighty-four is hereby  
2 further amended by striking out section twenty and  
3 inserting in place thereof the following new section:—  
4 *Section 20.* A defendant shall not avail himself in  
5 defence of any omission to state in such notice the  
6 name, place of residence of the person injured, the  
7 time, place or cause of the injury or damage, unless,  
8 within five days after receipt of a notice, given within  
9 the time required by law and by an authorized person  
10 referring to the injuries sustained and claiming damages  
11 therefor, the person receiving such notice, or some  
12 person in his behalf, notifies in writing the person  
13 injured, his executor or administrator, or the person  
14 giving or serving such notice in his behalf, that his  
15 notice is insufficient and requests forthwith a written  
16 notice in compliance with law. If the person author-  
17 ized to give such notice, within five days after the  
18 receipt of such request, gives a written notice com-  
19 plying with the law as to the name and place of resi-  
20 dence of the person injured, and the time, place and  
21 cause of the injury or damage, such notice shall have  
22 the effect of the original notice, and shall be con-  
23 sidered a part thereof. If the notice does not contain  
24 the place of residence of the person injured or the  
25 place of residence or business address of the person  
26 giving or serving the notice on behalf of the person  
27 so injured, such notice of insufficiency shall not be  
28 required.