

SENATE No. 128

To accompany the petition of William Flaherty for legislation relative to the penalty imposed on a railroad or street railway corporation for loss of life through its negligence. Joint Judiciary.

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Nine.

AN ACT

Relative to the Penalty imposed on a Railroad or Street Railway Corporation for Loss of Life through Its Negligence.

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 three hundred and ninety-two of
2 the acts of nineteen hundred and seven, amend-
3 atory of section sixty-three, number one, of
4 chapter four hundred and fifty-three of the acts
5 of the year nineteen hundred and six, is
6 hereby amended by striking out the words "one
7 year", wherever said words appear in said chap-
8 ter and substituting therefor the words:—two
9 years,— so that said section sixty-three will read

10 as follows:— *Section 63.* If a corporation which
11 operates a railroad or a street railway, by reason
12 of its negligence or by reason of the unfitness or
13 negligence of its agents or servants while engaged
14 in its business, causes the death of a passenger or
15 of a person who is in the exercise of due care and
16 who is not a passenger or in the employ of such
17 corporation it shall be punished by a fine of not
18 less than five hundred nor more than ten thou-
19 sand dollars which shall be recovered by an in-
20 dictment prosecuted within two years after the
21 time of the injury which caused the death, and shall
22 be paid to the executor or administrator, one half
23 thereof to the use of the widow and one half to
24 the use of the children of the deceased; or, if there
25 are no children, the whole to the use of the widow;
26 or, if there is no widow, the whole to the use of
27 the next of kin; but a corporation which operates
28 a railroad shall not be so liable for the death of a
29 person while walking or being upon its railroad
30 contrary to the law or to the reasonable rules and
31 regulations of the corporation. Such corporation
32 shall also be liable in damages in the sum of not
33 less than five hundred nor more than ten thousand
34 dollars, which shall be assessed with reference to
35 the degree of culpability of the corporation or of
36 its servants or agents, and shall be recovered in an
37 action of tort, begun within two years after the in-
38 jury which caused the death, by the executor or
39 administrator of the deceased for the use of the
40 persons hereinbefore specified in the case of an
41 indictment. If an employee of a railroad corpora-
42 tion, being in the exercise of due care, is killed
43 under such circumstances as would have entitled

44 him to maintain an action for damages against
45 such corporation if death had not resulted, the
46 corporation shall be liable in the sum of not less
47 than five hundred nor more than five thousand dol-
48 lars, in the same manner as it would have been if
49 the deceased had not been an employee. But no
50 executor or administrator shall, for the same cause,
51 avail himself of more than one of the remedies
52 given by the provisions of this section.

