

By Mr. Moakley, a petition of John J. Moakley for legislation to establish a motor vehicle compensation board and a state fund for certain injuries caused by certain motor vehicles. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT ESTABLISHING A MOTOR VEHICLE COMPENSATION BOARD AND A STATE FUND FOR CERTAIN INJURIES CAUSED BY CERTAIN MOTOR VEHICLES.

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. There shall be a board of motor vehicle compen-
2 sation in the division of insurance and consisting of the com-
3 missioner of insurance or his representative, the registrar of
4 motor vehicles or his representative and an assistant attorney
5 general to be designated from time to time by the attorney
6 general. The commissioner of insurance may be a writing, in
7 such form as he may prescribe, filed in his office, designate
8 from time to time a representative to act in his place and the
9 registrar of motor vehicles may in like manner designate from
10 time to time a representative to act in his place. Any such des-
11 ignation may be revoked at any time and may run for such
12 period as the designating officer may prescribe. The compensa-
13 tion of such representatives, if not employees of the common-
14 wealth shall be fixed by the board, subject to the approval of
15 the governor and council. The commissioner of insurance
16 or his representative shall be chairman of the board. With the
17 approval of the governor and council, the board may appoint
18 and remove an attorney, a secretary and such clerical and
19 other assistants as its work may require. The secretary shall
20 keep a record of all proceedings before the board and he and
21 such clerical and other assistants shall perform such duties as
22 the board may direct. Any member of the board shall have

23 power to summon and compel the attendance and testimony of
24 witnesses and the production of books, records and documents
25 and may administer oaths. Sections nine and eleven of chap-
26 ter two hundred and thirty-three of the General Laws shall
27 apply to the board and witnesses summoned before it. The fees
28 of witnesses before the board for attendance and travel shall
29 be the same as for witnesses before a court in civil cases and
30 need not be paid nor tendered to them prior to their attendance
31 and shall be paid by the commonwealth upon the certificate of
32 the board or a member thereof filed with the comptroller. An
33 office and a room for hearings shall be provided by the com-
34 monwealth to be assigned by the governor and council. The
35 board may hold hearings at any place within the common-
36 wealth and the members, attorney and secretary thereof shall
37 be allowed their necessary traveling and other expenses in
38 holding hearings outside of the city of Boston. The board,
39 with the approval of the governor and council, may make and
40 amend reasonable rules and regulations to expedite and regu-
41 late hearing and the procedure before it. The supreme judicial
42 or superior court may, upon application of the board, enforce
43 all lawful orders of the board.

1 SECTION 2. There is hereby established the Motor Vehicle
2 Compensation Fund. Said fund shall be managed by the com-
3 missioner of insurance. Said commissioner shall annually, on
4 or before April first, file a statement of the amount he deems
5 necessary for the operation of the said fund during the calen-
6 dar year in which such statement is filed.

7 The commissioner as soon as may be thereafter shall assess
8 said amount upon insurance companies insuring by policy or
9 bond against liability for personal injury caused by the opera-
10 tor of motor vehicles doing business in the commonwealth as
11 an additional excise for the privilege of so doing business, their
12 respective proportions of said amount based upon the amounts
13 of such insurance written by them upon motor vehicles regis-
14 tered in the commonwealth during the preceding calendar year,
15 as determined by the commissioner from their returns and such
16 other information, if any, as he may obtain. Said assessment

17 shall not exceed one per cent of premiums paid. Said assess-
18 ments shall not include premiums paid by owners of motor
19 vehicles who had no accident during the previous year, nor
20 claim made against them to the companies representing them.
21 The commissioner of insurance shall fix a time for the payment
22 of such assessments and shall notify the respective companies
23 of the amounts assessed upon them and of the time for pay-
24 ment. Any company deeming itself aggrieved by such assess-
25 ment may appeal therefrom to the appellate tax board in a
26 form which it will provide. Such appeal shall not stay the col-
27 lection of such assessment. Failure to pay any such assessment
28 at the time so fixed shall be a cause for suspension or revoca-
29 tion of a company's license.

30 The insurance commissioner shall file annually with the
31 board of motor vehicle compensation a report showing assets
32 and liabilities computed on the same basis as assets and liabili-
33 ties of insurance companies so far as applicable. The fund may
34 be examined at any time by the said board.

1 SECTION 3. Any person suffering personal injury or conse-
2 quential damages from a personal injury, or entitled to recover
3 for a death, in case such injury is caused by a motor vehicle
4 operating on a way in the commonwealth, as the term "way"
5 is defined in section one of chapter ninety of the General Laws,
6 which motor vehicle was operated by a hit and run driver or
7 trespasser on the public highways of the commonwealth shall,
8 upon application to the board and after a hearing, receive such
9 amount from the fund as the board shall award, not in excess
10 of five thousand dollars to any one person; provided, that he
11 assigns to the commonwealth any claim or judgment that he
12 may have against any person in connection with such injury
13 or death.

1 SECTION 4. Any person aggrieved by any rule, regulation,
2 ruling finding, award, decision or order of the board may,
3 within twenty days of the effective date of such rule, regula-
4 tion, ruling, decision, award, finding or order appeal to the
5 superior court for the purpose of having the reasonableness or

6 lawfulness thereof inquired into and determined.

1 SECTION 5. No application under this act shall be com-
2 menced at any time after six months after the occurrence of an
3 accident except with the unanimous approval of the board.