

appeal is filed in said court within fifteen days after such decision is recorded. The court shall hear all pertinent evidence and determine the facts, and, upon the facts as so determined, annul such decision if found to exceed the authority of such board, or make such other decree as justice and equity may require. The foregoing remedy shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases.

Costs shall not be allowed against the board unless it shall appear to the court that the board in making the decision appealed from acted with gross negligence, in bad faith or with malice.

Costs shall not be allowed against the party appealing from the decision of the board unless it shall appear to the court that said appellant or appellants acted in bad faith or with malice in making the appeal to the court.

All issues in any proceeding under this section shall have precedence over all other civil actions and proceedings.

*Section 22.* The superior court shall have jurisdiction in equity to enforce the provisions of this chapter, and any ordinances or by-laws adopted thereunder, and may restrain by injunction violations thereof. Jurisdiction of superior court.

If the attorney general questions the validity of any ordinance or by-law adopted by a city or town under this chapter, he shall bring an information in his own name as such officer in the superior court sitting in equity for the county in which such city or town is situated for a declaratory decree to determine the validity of such ordinance or by-law.

SECTION 3. The provisions of chapter forty A of the General Laws, so far as they are the same as those of sections twenty-five to thirty B, inclusive, of chapter forty of the General Laws, shall be construed as continuations of said provisions, and the enactment of this statute shall not affect the validity of any action lawfully taken under said provisions prior to the effective date of this act. Validity of certain acts not to be affected.

*Approved May 3, 1954.*

AN ACT EMPOWERING THE BOSTON TRAFFIC COMMISSION TO PROVIDE BY RULE OR REGULATION FOR THE REMOVAL OF VEHICLES PARKED OR STANDING IN VIOLATION OF LAW ON PUBLIC WAYS IN THE DOWNTOWN AREA OF THE CITY OF BOSTON. Chap. 369

*Be it enacted, etc., as follows:*

SECTION 1. Section 2 of chapter 263 of the acts of 1929 is hereby amended by inserting after the third sentence, as appearing in section 1 of chapter 78 of the acts of 1950, the following: — By any rule or regulation adopted under this section, the commission may authorize, with such limitations, if any, as the commission may think proper, the police commissioner of the city, or such sergeants or officers of higher rank in the police department of the city as he may from

time to time designate, to remove to some convenient place, through the agency of a person or persons in the employ of the police department of the city, but not by an independent contractor, any vehicle, except a vehicle owned by the commonwealth or a political subdivision thereof or by the United States or an instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered, and except also a vehicle owned by a disabled veteran and bearing a distinctive number plate authorized by section two of chapter ninety of the General Laws parked or standing on any part of any such street, way, highway, road or parkway in the downtown area of the city, as defined in section twenty A of chapter ninety of the General Laws, in violation of any rule or regulation adopted under this section which prohibits the parking or standing of all vehicles on such part at such time and recites that whoever violates it shall be liable to charge for the removal and storage of the vehicle as well as subject to punishment by fine, and may impose liability for the reasonable cost of such removal, and of the storage charges, if any, resulting therefrom, upon the owner of such vehicle; provided, however, that the liability so imposed shall not exceed five dollars for removal or six and one quarter cents for each hour, or part thereof, of storage, and that neither such removal nor such storage shall be deemed to be services rendered or work performed by the city or any department thereof within the meaning of chapter two hundred and twenty-two of the acts of nineteen hundred and forty-nine; and provided, further, that the city of Boston shall be liable to the owner of such vehicle for any damage caused to it arising out of negligence in the course of such removal and storage. No rule or regulation reciting that whoever violates it shall be liable to charge for the removal and storage of the vehicle as well as subject to punishment by fine shall be valid unless, in a writing filed with the secretary of the commission at the time of the adoption of such rule or regulation, every member of the commission voting for the adoption thereof certifies that after taking into account the public safety and convenience, the reasonably free circulation of vehicular traffic and the need for providing in the streets, ways, highways, roads and parkways in the downtown area of the city the maximum number of parking spaces at all times, he is of opinion that such rule or regulation is required by urgent public necessity.

SECTION 2. This act shall take full effect upon its acceptance by vote of the city council of said city, subject to the provisions of its charter, but not otherwise.

*Approved May 3, 1954.*