

sion, as the director may determine. In case an eligible list of at least two persons is not established from either of such promotional examinations, the position shall be filled after open competitive examination; provided, that if there be one person on either eligible list, the director shall certify such person. In departments, boards and commissions having not more than two employees, an appointing official may promote in the official service the sole employee or either one of the two, as the case may be; provided, that such employee passes a qualifying examination prescribed by the director; and provided, further, that such employee has been employed for at least three years in the service of such department, board or commission.

Approved July 22, 1941.

AN ACT DISCONTINUING AS A PUBLIC WAY A PORTION OF
NORTHERN AVENUE IN SOUTH BOSTON. Chap. 492

Be it enacted, etc., as follows:

SECTION 1. All that part of Northern avenue, laid out as a highway under the provisions of chapter three hundred and eighty-one of the acts of nineteen hundred and three and lying easterly of a point five hundred and ten feet east of the easterly line of D street as now constructed connecting the ramp with said Northern avenue in South Boston, is hereby discontinued as a public way, in accordance with a plan in the office of the department of public works marked: "Portion of Northern Avenue South Boston, to be Discontinued Department of Public Works of Massachusetts Division of Waterways Francis L. Sellew, District Waterways Engineer, Acc."

SECTION 2. This act shall take effect upon its passage.

Approved July 22, 1941.

AN ACT RELATIVE TO THE QUALIFICATIONS AND LICENSING
OF INSURANCE AGENTS, INSURANCE BROKERS AND SPECIAL
INSURANCE BROKERS. Chap. 493

Be it enacted, etc., as follows:

Chapter one hundred and seventy-five of the General Laws is hereby amended by inserting after section one hundred and seventy-four B, as appearing in the Tercentenary Edition, the following new section: — *Section 174C*. The commissioner, before issuing or renewing any license under section one hundred and sixty-three, one hundred and sixty-six, one hundred and sixty-seven, one hundred and sixty-eight, one hundred and seventy-two A, one hundred and seventy-three or one hundred and seventy-four, may make such investigation as he may deem necessary to ascertain whether an applicant, as hereinafter defined, has been violating section one hundred and eighty-three, and may require from an applicant such information as he may deem

G. L. (Ter. Ed.), 175, new section 174C, added.

Commissioner to make investigation before issuing or renewing licenses.

necessary in respect to his or its ownership of any property or interest therein or of any interest in any firm, association or corporation, in order to determine whether or not he shall refuse to issue or renew the license, as hereinafter provided. For the purposes of making investigations under this section, the commissioner shall have authority to examine the books, the records and the affairs of an applicant, and for this purpose shall have all the powers conferred by section four.

The commissioner shall refuse to issue or to renew any such license if he finds that an applicant has been violating section one hundred and eighty-three, or if he finds that more than ten per centum of the aggregate net commissions received by an individual, association, partnership or corporation licensee under any of said sections during the term of any prior license or renewal, or which would probably be received during the term of a new license thereunder, resulted or would result from insurance on or in respect to the property or any interest therein of any of the following: —

- (1) An applicant;
- (2) Any member of any firm or association of which an applicant is a member or owner;
- (3) An owner of any interest in an association or partnership which is an applicant and the spouse, if any, of such owner;
- (4) The stockholders of a corporation which is an applicant and their spouses, if any;
- (5) Any corporation owning an interest in a corporation which is an applicant, or any firm or association, its members or owners, and their spouses, if any, who individually or collectively own more than fifty per centum of the capital stock of such an applicant, and any other corporation of the capital stock of which such firm or association, its members or owners and their spouses, if any, own more than said percentage;
- (6) Any corporation of the capital stock of which an applicant or the applicants, individually or collectively, own more than fifty per centum;
- (7) Any affiliate or subsidiary of any corporation mentioned in this section;
- (8) An employee or an employer of an applicant;
- (9) Any person for whom an applicant is or acts as trustee.

The word "applicant", as used in this section, shall include an individual appointee under section one hundred and sixty-three and an individual applicant under section one hundred and sixty-six, one hundred and sixty-seven or one hundred and sixty-eight, an association, partnership or corporation which is an applicant under section one hundred and seventy-two A, one hundred and seventy-three or one hundred and seventy-four, and an individual to be specified as a trustee in a license issued to such an association or as an officer or a director in a license issued to such a corpo-

ration, or covered under a license issued to such a partnership, and, in the case of every such individual, shall include his or her spouse, if any.

Approved July 22, 1941.

AN ACT CLARIFYING THE MASSACHUSETTS UNFAIR SALES ACT, SO CALLED, BY INCLUDING IN THE COST TO THE RETAILER AND THE COST TO THE WHOLESALER SALES TAXES OR EXCISES LEVIED OR IMPOSED UPON MERCHANDISE ADVERTISED, OFFERED FOR SALE OR SOLD. Chap. 494

Be it enacted, etc., as follows:

Chapter ninety-three of the General Laws is hereby amended by striking out section fourteen F, inserted by section one of chapter four hundred and ten of the acts of nineteen hundred and thirty-eight, and inserting in place thereof the following section: — *Section 14F.* Any retailer who, with intent to injure competitors or destroy competition, advertises, offers to sell or sells at retail any item of merchandise at less than cost to the retailer, together with any sales taxes or excises levied or imposed upon such merchandise by the commonwealth or the United States of America not already included in the invoice or replacement cost to the retailer, or any wholesaler who, with intent as aforesaid, advertises, offers to sell or sells at wholesale any item of merchandise at less than cost to the wholesaler, together with any sales taxes or excises levied or imposed upon such merchandise by the commonwealth or the United States of America not already included in the invoice or replacement cost to the wholesaler, shall, if the offender is an individual, be punished by a fine of not more than five hundred dollars or by imprisonment for not less than one month nor more than one year, or both; or, if the offender is a corporation, by a fine as aforesaid. Evidence of any advertisement, offer to sell or sale of any item of merchandise by any retailer or wholesaler at less than cost to him, together with any sales taxes or excises levied or imposed upon such merchandise by the commonwealth or the United States of America not already included in the invoice or replacement cost to him, shall be prima facie evidence of intent to injure competitors or destroy competition.

Approved July 22, 1941.

AN ACT FURTHER REGULATING THE AMOUNT OF BURIAL EXPENSES TO BE PAID BY INSURERS IN FATAL INJURY CASES UNDER THE WORKMEN'S COMPENSATION LAW. Chap. 495

Be it enacted, etc., as follows:

Chapter one hundred and fifty-two of the General Laws is hereby amended by striking out section thirty-three, as amended by chapter eighty-one of the acts of nineteen hundred and thirty-nine, and inserting in place thereof the fol-

G. L. (Ter. Ed.), 93, § 14F, etc., amended.

Penalty.

G. L. (Ter. Ed.), 152, § 33, etc., amended.