

By Mr. White of Boston, petition of the Board of Directors of the Massachusetts Bay Transportation Authority and W. Paul White relative to the liability of said authority for certain acts and negligence. Transportation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT RELATIVE TO THE LIABILITY OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY FOR CERTAIN ACTS AND 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 161A of the General Laws is hereby amended by
2 striking out section 21 and inserting in place thereof the
3 following section:—

4 Except as otherwise provided herein, the authority shall be
5 liable for the acts and negligence of the directors and of the
6 servants and employees of the authority in the management and
7 operation of the authority and of the properties owned, leased
8 and operated by it to the same extent as though the authority
9 were a street railway company but the directors shall not be
10 personally liable except for malfeasance in office.

11 The authority shall be liable in tort to passengers, and to
12 persons in the exercise of due care who are not passengers or in
13 the employment of the authority, for personal injury and for
14 death and for damages to property in the same manner as
15 though it were a street railway company, provided, that like
16 notice is given as required by section eighteen of chapter eighty-
17 four of the General Laws, except that in all cases other than
18 those involving snow and ice the notice shall be given within
19 sixty days after the date of injury or damage, and the provisions
20 of sections nineteen and twenty of said chapter eighty-four shall
21 apply to such notice; and provided, further, that any action for

22 such personal injury or property damage shall be commenced
23 only within two years next after the date of such injury or
24 damage and in case of death only within two years next after the
25 date of the injury which caused the death; and provided, still
26 further, that in any action of tort brought under this section for
27 personal injuries, a plaintiff may recover damages for pain and
28 suffering, including mental suffering associated with such injury,
29 sickness or disease, only if the reasonable and necessary
30 expenses incurred in treating such injury, sickness or disease for
31 necessary medical, surgical, x-ray and dental services, including
32 prosthetic devices, and necessary ambulance, hospital,
33 professional nursing and funeral expenses are determined to be
34 in excess of five hundred dollars unless such injury, sickness or
35 disease (1) causes death, or (2) consists in whole or in part of
36 permanent and serious disfigurement, or (4) results in such loss
37 of sight or hearing as is described in paragraphs (a), (b), (c), (d),
38 (e), (f), and (g) of section thirty-six of chapter one hundred and
39 fifty-two or (5) consists of a fracture.

40 The directors shall have charge of and supervise the
41 investigation, settlement and defense of all such claims and of all
42 other suits or actions relating to the property or arising out of
43 the construction, maintenance or operation of the authority.