

By Mr. Saltonstall, a petition of William L. Saltonstall for legislation to provide for an alternative non-criminal disposition of violations of the anti-litter law. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING AN ALTERNATIVE NON-CRIMINAL DISPOSITION OF VIOLATIONS OF THE ANTI-LITTER LAW.

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. Chapter 270 of the General Laws is hereby
 2 amended by inserting, after section 16, the following new
 3 section: —

4 *Section 16A.* If any officer empowered to enforce section
 5 sixteen takes cognizance of a violation of any provision of said
 6 section, or of a misdemeanor, as defined by a by-law, regula-
 7 tion or ordinance of an agency of the commonwealth, or a city,
 8 town or authority therein, the substance of which is described
 9 in said section, he may, as an alternative to instituting criminal
 10 proceedings, forthwith give to the offender a written notice
 11 to appear before the clerk of the district court having juris-
 12 diction at any time during office hours, not later than twenty-
 13 one days after the time of such violation.

14 Any officer taking cognizance of any such violation may
 15 request the offender to state his name and address. Whoever,
 16 upon such request, refuses to state his name and address, or
 17 state a false name and address or a name and address which
 18 is not his name and address in ordinary use, shall be punished
 19 by a fine of not less than twenty nor more than fifty dollars.
 20 Any such offender who refuses upon such request to state his
 21 name and address may be arrested without a warrant.

22 Such notice shall be made in triplicate, and shall contain the
 23 name and address of the offender and, if served with notice

24 in hand at the time of such violation, the number of his
25 license, if any, to operate motor vehicles; the registration
26 number of the vehicle or motor boat involved, if any; the
27 time and place of the violation; the specific offense charged;
28 and the time and place for appearance. Such notice shall be
29 signed by the officer, and shall be signed by the offender when-
30 ever practicable in acknowledgement that the notice has been
31 received. The officer shall if possible deliver to the offender
32 at the time and place of the violation a copy of said notice.
33 Whenever it is not possible to deliver a copy of said notice to
34 the offender at the time and place of the violation, said copy
35 shall be mailed or delivered by the officer, or by his command-
36 ing officer or any person authorized by said commanding of-
37 ficer, to the offender's last known address, or in the case of a
38 violation involving a motor vehicle or motor boat registered
39 under the laws of this commonwealth, within five days of the
40 offence, or in the case of any motor vehicle or motor boat
41 registered under the laws of another state or country, within
42 ten days thereof, exclusive, in either case, of Sundays and
43 holidays, to the address of the registrant of the motor ve-
44 hicle or motor boat involved, as appearing, in the case of a
45 motor vehicle registered under the laws of this commonwealth,
46 in the records of the registry of motor vehicles or the division
47 of motor boats or, in the case of a motor vehicle or motor
48 boat registered under the laws of another state or country
49 in the records of the official in such state or country having
50 charge of the registration of such motor vehicle or motor
51 boat. Such notice mailed, by the officer, his commanding of-
52 ficer, or the person so authorized to the last address of said
53 registrant as appearing as aforesaid, shall be deemed a suffi-
54 cient notice, and a certificate of the officer or person so mail-
55 ing such notice that it has been mailed in accordance with
56 this section shall be deemed prima facie evidence thereof and
57 shall be admissible in any court of the commonwealth as to the
58 facts contained therein. At or before the completion of each
59 tour of duty the officer shall give to his commanding officer
60 those copies of each notice of such a violation taken cogni-
61 zance of during such tour which have not already been de-

62 livered or mailed by him as aforesaid. Said commanding of-
63 ficer shall retain and safely preserve one of such copies and
64 shall, at a time not later than the next court day after said
65 delivery or mailing, deliver another of such copies to the
66 clerk of the court before whom the offender has been notified
67 to appear. The clerk of each district court shall maintain a
68 separate docket of all such notices to appear.

69 Any person notified to appear before the clerk of a district
70 court as hereinbefore provided may appear before such clerk
71 and confess the offense charged, either personally or through
72 an agent duly authorized in writing, or by mailing to such
73 clerk, with the notice, the sum provided herein, such pay-
74 ment to be made only by postal note, money order or check.
75 If it is the first, second or third offense subject to this section
76 committed by such person within the jurisdiction of the court
77 in the calendar year, payment to such clerk of the sum of
78 twenty dollars shall operate as a final disposition of the case;
79 if it is the fourth or subsequent such offense so committed in
80 such calendar year, payment to such clerk of the sum of one
81 hundred dollars shall operate as a final disposition of the case.
82 Proceedings under this paragraph shall not be deemed crimi-
83 nal; and no person notified to appear before the clerk of a
84 district court as provided herein shall be required to report
85 to any probation officer, and no record of the case shall be
86 entered in the probation records.

87 Should any peron notified to appear before the clerk of the
88 district court fail to appear and pay the fine provided here-
89 under or, having appeared, desire not to avail himself of the
90 procedure hereinbefore provided for the noncriminal disposi-
91 tion of the case, the clerk shall, as soon as may be, notify the
92 officer concerned, who shall forthwith make a complaint and
93 follow the procedure established for criminal cases, and shall
94 notify, if a motor vehicle is involved, the registrar of motor
95 vehicles, or, if a motor boat is involved, the division of motor
96 boats. If any person fails to appear in accordance with the
97 summons issued upon such complaint the clerk shall send such
98 person by certified mail, return receipt requested, a notice that
99 the complaint is pending and that if the person fails to appear

100 within twenty-one days from the sending of such notice a
101 warrant for his arrest will be issued. If any person fails to
102 appear within twenty-one days from the sending of such no-
103 tice, the court shall issue a warrant for his arrest.

104 The notice to appear, provided herein, shall be printed in
105 such form as the chief justice of the municipal court of the
106 city of Boston may prescribe for said court, and as the ad-
107 ministrative committee of the district courts as created by
108 section forty-three A of chapter two hundred and eighteen
109 may prescribe for district courts other than said municipal
110 court.

1 SECTION 2. Section 16 of chapter 270 of the General Laws,
2 as most recently amended by chapter 134 of the acts of 1970,
3 is hereby amended by adding the following new paragraph: —

4 The superior court shall have jurisdiction in equity to en-
5 force the provisions of this section and remedy violations
6 thereof, on the petition of the attorney general or any city
7 or town.