

# SENATE . . . . . No. 1259

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By Mr. Keating, a petition (accompanied by bill, Senate, No. 1259) of William R. Keating, Michael W. Morrissey and Louis L. Kafka for legislation to control the transportation of hazardous materials in the Commonwealth. Public Safety.

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## The Commonwealth of Massachusetts

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

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### AN ACT TO CONTROL THE TRANSPORTATION OF HAZARDOUS MATERIALS IN THE COMMONWEALTH.

*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 6A of the General Laws is hereby  
2 amended by adding after section 18 the following new section: —

3 Section 18A. (a) The Secretary of Public Safety shall assign  
4 among the several divisions and agencies under his control the  
5 duty of coordinating and assisting in the enforcement of the haz-  
6 ardous materials transportation and motor carrier safety regula-  
7 tions promulgated pursuant to section 31 chapter 90 of the  
8 General Laws, except that the Massachusetts Civil Defense  
9 Agency and Office of Emergency Preparedness shall serve as the  
10 lead agency charged with coordinating the first response to haz-  
11 ardous materials incidents pursuant to its authority under chap-  
12 ter 639 of the acts of 1950 as amended.

13 (b) The Secretary of Public Safety shall apply for, accept and  
14 expend, subject to appropriation, on behalf of the commonwealth,  
15 any gift, loan or grant-in-aid from the federal government, or any  
16 agency or instrumentality thereof for demonstration projects or  
17 programs as may become available to the commonwealth for the  
18 purpose of enforcing laws and regulations related to the trans-  
19 portation of hazardous materials in the commonwealth.

1 SECTION 2. Chapter 22 of the General Laws is hereby  
2 amended by adding after section 3B the following new section: —

3 Section 3C. There shall be within the division of state police a  
4 commercial vehicle enforcement section. The commissioner may  
5 from time to time assign such members of the division of state  
6 police and other assistants as he may deem necessary to carry out  
7 the duties of said section, but at no time shall the section number  
8 less than fifty-one members.

1 SECTION 3. Chapter 28 of the General Laws is hereby amend-  
2 ed by adding after section 3 the following new section: —

3 Section 3A. There shall be within the Metropolitan District  
4 Commission Police Division, a Commercial Motor Vehicle  
5 Enforcement Section. The Commissioner may from time to time  
6 assign such members of the Division and other assistants as he  
7 may deem necessary to carry out the duties of said section, but at  
8 no time shall the section number less than fifteen members.

1 SECTION 4. Section 1 of Chapter 639 of the Acts of 1950,  
2 as most recently amended by Chapter 579 of the Acts of 1978,  
3 is hereby further amended by adding the following new defini-  
4 tions: —

5 “Hazardous Material,” any substance or material in a quantity  
6 and form determined by the United States Department of  
7 Transportation as capable of posing an unreasonable risk to health  
8 and safety or property when transported in commerce.

9 “Imminent Hazard,” a clear and present danger that death, ill-  
10 ness, personal injury, or irreparable harm to the environment may  
11 occur.

12 “Law Enforcement Official,” any duly authorized employee of  
13 a state agency primarily responsible for prevention or detection of  
14 crime and the enforcement of the criminal code or the highway  
15 and traffic laws of the commonwealth.

16 “Transportation,” any movement by any mode over the ways of  
17 the commonwealth and any loading, unloading or storage inciden-  
18 tal thereto.

1 SECTION 5. Chapter 639 of the Acts of 1950 is hereby further  
2 amended by adding the following new section: —

3 Section 2C. The director shall coordinate the response of state  
4 and local agencies, including law enforcement officials and local



5 fire departments to incidents involving the transportation of haz-  
6 arduous materials which pose an imminent hazard.

1 SECTION 6. Section 7 of Chapter 90 of the General Laws, as  
2 most recently amended by Chapter 115 of the Acts of 1984, is  
3 hereby further amended by striking out the third paragraph in its  
4 entirety and inserting in place thereof the following new para-  
5 graph: —

6 Massachusetts had adopted the Federal Motor Carrier Safety  
7 Regulations, in part, as Motor Vehicle Regulations 540 CMR  
8 14.00; Commercial Motor Vehicles, as defined in these regula-  
9 tions and operated by motor carriers, shall conform to the Federal  
10 Motor Carrier Safety Regulations as adopted, notwithstanding the  
11 preceding provisions of this section.

1 SECTION 7. Section 7A of Chapter 90 of the General Laws,  
2 as most recently amended by Chapter 289 of the Acts of 1983, is  
3 hereby further amended by adding at the end of the second para-  
4 graph the following new sentence: — Commercial Motor Vehicles  
5 shall, in addition, be subject to the Federal Motor Carrier Safety  
6 Regulations as adopted in Motor Vehicle Regulation 540  
7 CMR 14.00.

1 SECTION 8. Section 15 of Chapter 90 of the General Laws, as  
2 most recently amended by Chapter 142 of the Acts of 1982, is  
3 hereby further amended by adding at the end of the second sen-  
4 tence the following: —, except as otherwise provided for  
5 Commercial Motor Vehicles in Motor Vehicle Regulations 540  
6 CMR 14.00

1 SECTION 9. Section 20 of Chapter 90 of the General Laws, as  
2 most recently amended by Chapter 167 of the Acts of 1984, is  
3 hereby further amended by striking the first clause of the first sen-  
4 tence and inserting in place thereof the following: — A person  
5 convicted of a violation of any provision of this chapter, or of any  
6 rule or regulation of the registrar made under the authority of sec-  
7 tion thirty-one, the punishment for which is not otherwise provid-  
8 ed, shall be punished by a fine of not more than twenty-five dol-  
9 lars for the first offense, not less than twenty-five nor more than

10 fifty dollars for a second offense, and not less than fifty nor more  
11 than one hundred dollars for a subsequent offense committed dur-  
12 ing any twelve month period.

1 SECTION 10. Section 20 of Chapter 90 of the General Laws,  
2 as most recently amended by Chapter 167 of the Acts of 1984, is  
3 hereby further amended by adding the following paragraph: —

4 Any person convicted of a violation of the regulations govern-  
5 ing the transportation of hazardous materials made under the  
6 authority of section thirty-one shall be punished by a fine of not  
7 less than one hundred and twenty-five dollars nor more than five  
8 hundred dollars for the first offense, and not less than two hundred  
9 and fifty dollars nor more than one thousand dollars for a second  
10 or subsequent offense occurring within a three year period.

1 SECTION 11. Section 29 of Chapter 90 of the General Laws,  
2 as most recently amended by Chapter 262 of the Acts of 1982, is  
3 hereby further amended by striking out the fourth sentence in its  
4 entirety and inserting in place thereof the following new sen-  
5 tence: — He shall establish a section for the inspection of motor  
6 vehicles used for the transportation of property with reference to  
7 all police requirements, including equipment, content and weight  
8 of loads, said section hereinafter called the commercial weight,  
9 dimensions and hazardous materials enforcement section, and he  
10 may from time to time assign personnel as he may deem necessary  
11 to carry out the duties of said section.

1 SECTION 12. Section 31 of Chapter 90 of the General Laws,  
2 as most recently amended by Chapter 222 of the Acts of 1966, is  
3 hereby further amended by striking out the first sentence in its  
4 entirety and inserting in place thereof the following new sen-  
5 tences: — The registrar may make rules and regulations governing  
6 the use and operation of motor vehicles or trailers and the conduct  
7 of operators and chauffeurs, and may alter, rescind or add to any  
8 rules and regulations previously made by him; provided, however,  
9 in governing the operation and use of commercial motor vehicles,  
10 he shall adopt by reference the highway related portions of the  
11 Code of Federal Regulations, being Title 49, Subchapter C of  
12 Chapter 1, parts 171 through 179, and Subchapter B of Chap-



13 ter III, parts 390 through 397 of said Title 49, and he shall review  
14 and adopt by reference any subsequent amendments to said feder-  
15 al regulations whenever such amendments are made; provided fur-  
16 ther, that he shall make exemptions to the adoption of said federal  
17 regulations when such adoption would be in conflict with  
18 Massachusetts law, rule or regulation regarding the intrastate  
19 operation of Commercial Motor Vehicles.

1 SECTION 13. Section 2 of Chapter 159B of the General Laws,  
2 as most recently amended by Chapter 546 of the Acts of 1975,  
3 is hereby further amended by adding the following new defini-  
4 tion: —

5 “Law Enforcement Officer,” any duly authorized state police  
6 officer, an investigator or examiner of the commercial motor  
7 vehicle division, an employee of the registry of motor vehicles  
8 with police powers, or a metropolitan district commission police  
9 officer.

1 SECTION 14. Section 14A of chapter 159B of the General  
2 Laws, as most recently amended by Chapter 192 of the Acts of  
3 1985, is hereby further amended by striking out the first sentence  
4 in its entirety and inserting in place thereof the following new  
5 sentence: — Every motor carrier, including private carriers and  
6 interstate licensees, their agents and employees, when requested  
7 by a duly authorized law enforcement officer as defined in this  
8 chapter, who is in uniform or displays the proper insignia of his  
9 office, shall stop and submit to said duly authorized law enforce-  
10 ment officer all transportation documents, including bills of lad-  
11 ing, way bills and other papers relating to his cargo which are in  
12 his possession and shall submit the cargo and other contents, if  
13 any, of his motor vehicle to such reasonable examinations as may  
14 be necessary to inform the duly authorized law enforcement offi-  
15 cer of the nature and weight thereof.

1 SECTION 15. Section 18 of Chapter 159B of the General  
2 Laws, as added by Chapter 483 of the Acts of 1938, is hereby  
3 amended by adding at the end of the first sentence the following  
4 words: ; provided that commercial motor vehicles covered under  
5 the provisions of Motor Vehicle Regulation 540 CMR 14.00 shall

6 comply with those regulations pertaining to hours of service of  
7 drivers.

1 SECTION 16. The Massachusetts Fire Fighting Academy shall  
2 have the duty to plan and coordinate adequate and effective train-  
3 ing programs which shall be conducted by the academy to train  
4 fire fighters to respond to hazardous materials incidents.

1 SECTION 17. Each of the fifteen fire districts, as established  
2 by Executive Order 221, signed June 30, 1982, and as recognized  
3 by the most recent Mutual Aid Agreement, is hereby authorized to  
4 purchase a Hazardous Materials Incident response Vehicle through  
5 the Commonwealth of Massachusetts.

1 SECTION 18. The Secretary of Public Safety shall conduct a  
2 study of the administration and enforcement of sections one  
3 through seventeen of this act and of the necessity for additional  
4 legislation to control the transportation of hazardous materials in  
5 the commonwealth. The Secretary shall report his findings and  
6 recommendations to the governor, the committees on ways and  
7 means, and the committee on public safety.



