

HOUSE No. 453.

[House, No. 426, as amended.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Eighty-six.

AN ACT

To extend and regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Employees in their Service.

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. Where, after the passage of this
2 act, personal injury is caused to an employee,
3 being in the exercise of due care —

4 (1) By reason of any defect in the condition
5 of the ways, works or machinery connected with
6 or used in the business of the employer, which
7 arose from or had not been discovered or reme-
8 died owing to the negligence of the employer or

9 of any person in the service of the employer and
10 entrusted by him with the duty of seeing that the
11 ways, works or machinery were in proper condi-
12 tion; or

13 (2) By reason of the negligence of any per-
14 son in the service of the employer who has had
15 the general superintendence of the business of
16 the employer entrusted him whilst in the exercise
17 of such general superintendence.

18 (3) By reason of the act or omission of any
19 person in the service of the employer, done or
20 made in obedience to the rules or by-laws of the
21 employer, or in obedience to particular instruc-
22 tions given by any person in the service of the
23 employer, who has had such general superintend-
24 ence entrusted to him whilst in the exercise of
25 such general superintendence, provided the in-
26 jury resulted from some impropriety or defect in
27 said rules, by-laws or instructions.

28 (4) By reason of the negligence of any person
29 in the service of the employer who has the charge
30 or control of any signal, switch, locomotive engine
31 or train upon a railroad or railway, the employee,
32 or in case the injury results in death the legal
33 representatives of such employee shall have the
34 same right of compensation and remedies against
35 the employer as if the employee had not been
36 an employee of nor in the service of the employer,
37 nor engaged in its work.

1 SECT. 2. Where any employee is instantly

2 killed or dies without conscious suffering as the
3 result of the negligence of an employer, or of the
4 negligence of any person for whose negligence
5 the employer is answerable by law, the personal
6 representatives of the deceased may maintain an
7 action for damages therefor, and may recover in
8 the same manner and to the same extent as if the
9 death of the deceased had not been instantaneous
10 or as if the deceased had consciously suffered.

1 SECT. 3. The amount of compensation receiv-
2 able under this act shall not exceed the sum of five
3 thousand dollars. Written notice of any injury,
4 whether resulting in death or otherwise, shall be
5 given to the employer or his legal representatives,
6 by or on behalf of the person injured, within sixty
7 days of such injury, stating the time, place and
8 cause thereof; and the action thereon shall be
9 commenced, if at all, within one year from the
10 date of the accident. But no notice given under
11 the provisions of this section shall be deemed to
12 be invalid or insufficient solely by reason of any
13 inaccuracy in stating the time, place or cause of
14 the injury: *provided*, it is shown that there was
15 no intention to mislead, and that the party enti-
16 tled to notice was not in fact misled thereby.
17 The provisions of section three of chapter seventy-
18 four of the Public Statutes shall not apply to this
19 act.

1 SECT. 4. All moneys recovered in case of

2 death shall be paid to the executor or adminis-
3 trator for the use of the widow and children of
4 the deceased in equal moieties ; or, if there are
5 no children, to the use of the widow ; or, if there
6 is no widow or children, to the use of the next of
7 kin.

1 SECT. 5. For the purposes of this act, unless
2 the context otherwise requires, the expression
3 “ person who has had the general superintendence
4 of the business of the employer entrusted to him ”
5 means a person who has charge, control or over-
6 sight of the whole or any portion or part of the
7 employer’s workmen, ways, works or machinery,
8 and whose sole or principal duty is that of super-
9 intendence, oversight or control, and who is not
10 ordinarily engaged in manual labor. The ex-
11 pression “ employer ” includes a body corporate
12 or unincorporate.

HOUSE OF REPRESENTATIVES, June 9, 1886.

Passed to be engrossed.

Sent up for concurrence.

EDWARD A. McLAUGHLIN,
Clerk.