

By Mr. Murphy of Peabody, petition of John E. Murphy, Jr., relative to applications for outdoor advertising and providing for hearings thereon. Commerce and Labor.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty.

AN ACT PROVIDING FOR OUTDOOR ADVERTISING APPLICATIONS AND HEARINGS THEREON.

*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 93 of the General Laws is hereby  
2 amended by striking out section 29, as amended by chapter 143 of  
3 the acts of 1958, and inserting in place thereof the following  
4 section:—

5 *Section 29.* The Outdoor Advertising Board, herein and in sec-  
6 tions twenty-nine B, thirty, thirty B and thirty-one, called the  
7 board, may make amend or repeal rules and regulations necessary  
8 to carry out its responsibilities as set forth in section thirteen of  
9 Chapter sixteen and section two of Chapter twenty-one A; and the  
10 board may attend all hearings held pursuant to sections thirty A  
11 and thirty-one and shall, upon the written request of any city,  
12 town, or political subdivision of the commonwealth provide inves-  
13 tigatory services and technical services at all hearings held pursu-  
14 ant to said sections thirty A and thirty-one

1 SECTION 2. Chapter 93 of the General Laws is hereby further  
2 amended by striking out section 29A, as amended by section 5 of  
3 chapter 584 of the statutes of 1955, and inserting in place thereof  
4 the following section:—

5 *Section 29A.* No person, firm, association, partnership, trust or  
6 corporation shall engage in the business of outdoor advertising by  
7 means of billboards, signs or other advertising devices without first

8 obtaining a license therefor from the proper issuing authority. As  
9 used herein and in sections 29B, 30, 30A, 30B and 31, proper  
10 issuing authority shall mean the city, town or political subdivision  
11 of the commonwealth wherein and whereon the billboard, sign or  
12 other advertising devices are, or are intended to be, located.

13 No person, firm, association, partnership, trust or corporation  
14 shall post, erect, display or maintain on any public way or on  
15 private property within public view from any highway, public park  
16 or reservation any billboard or other advertising device, whether  
17 erected before August twenty-five, nineteen hundred and twenty,  
18 or not, which advertises or calls attention to any business, article,  
19 substance or any other thing, unless such billboard or device  
20 conforms to the ordinances, by-laws, and laws of cities, towns and  
21 political subdivisions of the commonwealth and the provisions of  
22 Title 23, United States Code.

23 This section shall not apply to signs or other devices erected and  
24 maintained in conformity with law and which advertise or indicate  
25 either the person occupying the premises in question or the busi-  
26 ness transacted thereon, or advertise the property itself or any part  
27 thereof as for sale or to let and which contain no other advertising  
28 matter or which are maintained on land owned by a person, firm,  
29 association or corporation engaged in the outdoor advertising  
30 business if owned by the same person, firm, association or corpora-  
31 tion on January first, nineteen hundred and twenty-five, and if  
32 billboards or other devices were maintained thereon prior to  
33 August twenty-fifth, nineteen hundred and twenty, and have been  
34 maintained thereon from that time until January first, nineteen  
35 hundred and forty-five

1 SECTION 3. Chapter 93 of the General Laws is hereby further  
2 amended by inserting after section 29A, the following section: —

3 *Section 29B.* (1) All applications for licenses and permits, per-  
4 manent, temporary or renewal, pertaining to the business of out-  
5 door advertising and the erection and maintenance of billboards,  
6 signs or other advertising devices shall be made to the city, town or  
7 political subdivision wherein and whereon the business of outdoor  
8 advertising is, or is intended to be conducted and the billboard,  
9 sign or other advertising device is, or is intended to be, located.

10 (2) Such application shall be made on forms supplied by the  
11 proper issuing authority and shall be accompanied by the fee set by  
12 the proper issuing authority, and the fees so set need not be uniform  
13 throughout the commonwealth.

14 (3) Within five days from the date of receipt of such application,  
15 the proper issuing authority shall give notice thereof to the board,  
16 and may request, in writing, that the board provide its investiga-  
17 tory services and technical advice. Such written request for services  
18 and advice shall be accompanied by compensation therefor in the  
19 amount of one-third of the fee received by the proper issuing  
20 authority pursuant to paragraph two hereinabove

1 SECTION 4. Chapter 93 of the General Laws is hereby further  
2 amended by striking out section 30, as amended by chapter 233 of  
3 the statutes of 1945, and inserting in place thereof the following  
4 section:—

5 *Section 30.* Cities, towns, and political subdivisions of the com-  
6 monwealth shall have the right to refuse any application made  
7 under section twenty-nine B and to order the removal or taking of  
8 any billboard, sign or other advertising device if the allowance,  
9 existence and maintenance thereof violates or would violate any  
10 ordinance, by-law or statute of the proper issuing authority, or the  
11 provisions of Title 23, United States Code or regulations and  
12 agreements thereunder promulgated and made.

13 No application refusal or order of removal or taking shall be  
14 made without a prior hearing held and conducted by the proper  
15 issuing authority, written notice of which shall be given by regis-  
16 tered mail, at least fifteen days prior to the date set for hearing to  
17 the applicant for the license or permit, the owner of the billboard,  
18 sign, or other advertising device, and the owner or person with  
19 right to possession of the property upon which the billboard, sign,  
20 or other advertising device is, or is intended to be, located, and the  
21 board.

22 Such written notice shall include, but need not be limited to, the  
23 time, date and place of the hearing and the basis of the proposed  
24 application refusal or order of removal or taking.

25 All hearings shall be conducted in accordance with the provi-  
26 sions of section thirty A.

1 SECTION 5. Chapter 93 of the General Laws is hereby further  
2 amended by striking out section 30A, as amended by section 6 of  
3 Chapter 584 of the statutes of 1955, and inserting in place thereof  
4 the following section: —

5 *Section 30A.* Within thirty days from the date of receipt of an  
6 application made under section twenty-nine B or from the date of  
7 its determination to order a removal or taking of a billboard, sign  
8 or other advertising device, the proper issuing authority shall hold  
9 and conduct a hearing as required by section thirty.

10 At the request of any party, made in writing at least three days  
11 before the hearing date, or of its own accord, the proper issuing  
12 authority shall order that the hearing be officially reported by a  
13 stenographer appointed for that purpose and duly sworn. The cost  
14 of the stenographer's presence shall be paid by the requesting party  
15 and the proper issuing authority shall require that any party  
16 requesting a copy of the transcript also provide it with a copy and  
17 pay the costs thereof.

18 Any party entitled to notice of the hearing as provided in section  
19 30, shall have the right to present evidence and cross-examine  
20 witnesses at the hearing.

21 The decision of the proper issuing authority shall be in writing  
22 and copies thereof shall be given by certified mail to all parties  
23 entitled to notice of the hearing so provided in section 30 within  
24 fifteen days from the date of the hearing.

1 SECTION 6. Chapter 93 of the General Laws is hereby further  
2 amended by inserting after section 30A, the following section: —

3 *Section 30B.* Any bill board, sign or other advertising device,  
4 erected after August twentieth, nineteen hundrd and twenty, with-  
5 out the authorization or permit of the division, authority, depart-  
6 ment, or board regulating the business of outdoor advertising  
7 when the said billboard, sign, or other advertising device was  
8 erected, or any billboard, sign, or other advertising device which  
9 violates any ordinance, by-law, or statute of the proper issuing  
10 authority, or the provisions of Title 23, United States Code or  
11 regulations and agreements thereunder promulgated and made,  
12 shall be deemed a nuisance and any city, town, or political subdivi-  
13 sion wherein and whereon the nuisance is located shall have the

14 power to abate and remove any such nuisance, all in accordance  
15 with the provisions of section 30A.

16 No city, town, or political subdivision of the commonwealth  
17 shall, however, acting under section 30A or hereunder remove or  
18 take, or cause to be removed or taken, any billboard, sign or other  
19 advertising device without payment of just compensation for all  
20 right, title, leasehold, and interest of the owner in any billboard,  
21 sign, or other advertising device which was lawfully erected and  
22 lawfully maintained.

23 Any city, town, or political subdivision of the commonwealth  
24 seeking the removal or taking of a billboard, sign or other advertis-  
25 ing device on the basis that its existence or continued maintenance  
26 violates a statute of the commonwealth or Title 23, United States  
27 Code or regulations and agreements thereunder promulgated and  
28 made, shall first petition the department of public works to acquire  
29 the billboard, sign or other advertising device pursuant to Section 6  
30 of Chapter 530 of the Acts of 1977.

31 Any owner of the right, title, leasehold and interest in any  
32 billboard, sign or other advertising device ordered removed or  
33 taken, aggrieved by the decision as to the amount of just compensa-  
34 tion, shall have the right to request a hearing before the city, town,  
35 or political subdivision awarding the compensation and such hear-  
36 ing shall be held and conducted in accordance with the provisions  
37 of section thirty and thirty A.

SECTION 7. Chapter 93 of the General Laws is hereby further  
1 amended by striking out section 31, as amended by section 7 of  
2 Chapter 584 of the statutes of 1955, and inserting in place thereof  
3 the following section: —

4 *Section 31.* Any party aggrieved by a decision of the proper  
5 issuing authority under sections thirty A and thirty B, may, within  
6 twenty days from the date of receipt of the decision, file a petition  
7 for review in the superior court for the county wherein and where-  
8 on the billboard, sign or other advertising device is, or is intended  
9 to be, located. Service of the petition for review shall be made upon  
10 the proper issuing authority and any other parties to the hearing,  
11 who were given notice under section 30, in accordance with the  
12 Massachusetts Rules of Civil Procedure. The board shall not be

13 deemed an aggrieved party but shall, upon proper motion to the  
14 court, be allowed to intervene.

15 The commencement of an action hereunder shall not operate as  
16 a stay of enforcement of the decision of the proper issuing author-  
17 ity, but said authority may stay enforcement and the superior court  
18 may order a stay upon such terms as it considers proper.

19 The proper issuing authority shall, by way of answer, file in court  
20 the original or a certified copy of the record of the proceeding  
21 under review. The record shall consist of: a copy of the notice  
22 required under section 30; a copy of the transcript, if requested  
23 under section 30A, or such portions thereof as the parties hereto  
24 may stipulate or a statement of the case agreed to by the parties  
25 hereto; any exhibits, documents, or pleadings presented during the  
26 course of the hearing which the proper issuing authority deems  
27 necessary or has been requested to include by any party hereto,  
28 provided said request is made upon the proper issuing authority  
29 within ten days from the date of service of the petition upon the  
30 said authority; and a copy of the decision issued under section 30A.  
31 The expense of preparing the record may be assessed as part of the  
32 costs in the case, and the court may, regardless of the outcome of  
33 the case, assess anyone unreasonably refusing to stipulate to limit  
34 the record for the additional expenses of preparation caused by  
35 such refusal. The court may require or permit subsequent correc-  
36 tions or additions to the record when deemed desirable.

37 Review hereunder shall be identical to and in accordance with  
38 Paragraphs Five through Seven (g), inclusive, of Section Fourteen,  
39 Chapter thirty.

1 SECTION 8. Chapter 93 of the General Laws is hereby  
2 further amended by striking from Section 33, as enacted by section  
3 7 of chapter 545 of the statutes of 1920, in lines 1 and 2, the words  
4 "any rule, regulation, ordinance, or by-law established or adopted  
5 under section twenty-nine" and inserting in place thereof the  
6 words: — the provisions of section twenty-nine A.

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