

By Mr. Brownell of Quincy, petition of Robert H. Quinn (Attorney General) and Thomas F. Brownell for legislation to authorize the recodification of the air pollution laws. Natural Resources and Agriculture.

## The Commonwealth of Massachusetts

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

### AN ACT RECODIFYING THE AIR POLLUTION LAWS.

*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 111 of the General Laws is hereby amended by  
2 striking out sections 142A through 142E, inclusive, and in-  
3 serting in place thereof the following new section:

4 *Section 142A.* The department may from time to time,  
5 subject to the approval of the governor and council, after a  
6 public hearing adopt, amend or repeal rules and regulations to  
7 prevent pollution or contamination of the atmosphere, effective  
8 upon filing, with the state secretary as provided in section  
9 thirty-seven of chapter thirty or at such later date as may be  
10 specified by the department. Such filing shall create a presump-  
11 tion, which may be rebutted, of compliance with the require-  
12 ments of chapter thirty-A in the adoption or amendment of  
13 such regulations. The department shall also control the pollu-  
14 tion of the atmosphere with such districts as are created under  
15 this section. The department may from time to time, after a  
16 public hearing adopt, amend or repeal rules and regulations to  
17 prevent the pollution or contamination of the atmosphere  
18 within such districts.

19 There is hereby established a metropolitan air pollution  
20 control district, to consist of the territory and waters com-  
21 prised within the cities and towns of Arlington, Belmont,  
22 Boston, Braintree, Brookline, Cambridge, Canton, Chelsea, Ded-  
23 ham, Everett, Lynn, Malden, Medford, Melrose, Milton, Need-

24 ham, Newton, Peabody, Quincy, Revere, Saugus, Somerville,  
25 Stoneham, Wakefield, Waltham, Watertown, Weymouth, Win-  
26 chester, Winthrop, and Woburn, and such other cities and  
27 towns as may, after application for admission to the said  
28 district, be admitted thereto by the department; provided, that  
29 said district shall at all times be composed of contiguous  
30 territory. The department, with the approval of the governor,  
31 may establish air pollution control districts compatible with  
32 such air quality control regions as may be designated by the  
33 secretary of the federal department of health, education and  
34 welfare under the provisions of the Air Quality Act of 1967, or  
35 any additions or amendments thereto. Each such district shall  
36 be composed of two or more political subdivisions of the  
37 commonwealth and of contiguous territory. Cities or towns  
38 wishing to form such a district shall make joint application to  
39 the department, requesting the department to approve such  
40 district and to effect the control of air pollution therein. The  
41 department, with the approval of the governor, may add to or  
42 remove from air pollution control districts such cities and  
43 towns, and may establish or abolish such other air pollution  
44 control districts, as it may deem advisable and necessary to  
45 effect air pollution control in the commonwealth.

46 The department may adopt, and from time to time amend,  
47 after public hearings, ambient air quality standards applicable  
48 to districts created under this section and to other portions of  
49 the commonwealth, and shall adopt a plan for implementation,  
50 maintenance and attainment of such standards.

51 Personnel of the department may in the performance of  
52 their duties under this section enter and inspect any premises,  
53 providing said personnel receive the consent of the owner or  
54 person in control of such premises. A court, judge or justice  
55 authorized to issue warrants in criminal cases may, upon sworn  
56 testimony by said personnel that consent for such entry and  
57 inspection has been requested and refused, and upon further  
58 sworn testimony either (1) that a reasonable inspection of  
59 industrial or commercial premises is necessary to detect, pre-  
60 vent or warn against conduct or conditions which may threaten  
61 the public health, comfort and convenience by contributing to  
62 air pollution, or (2) that a reasonable nondiscriminatory public

63 health inspection, of which the inspection of the particular  
64 premises is a part, has been authorized by the department and  
65 is being undertaken to detect, prevent or warn against conduct  
66 or conditions which may threaten the public health, comfort  
67 and convenience by contributing to air pollution, if satisfied  
68 that such testimony is true, issue a warrant identifying the  
69 particular premises and authorizing said personnel seeking the  
70 warrant to conduct a reasonable search of such premises during  
71 daylight hours if the premises is residential, or during operating  
72 hours if the premises is industrial or commercial. For the  
73 purposes of securing a warrant under this section, belief or  
74 knowledge regarding actual conduct or conditions in a particu-  
75 lar premises shall not be necessary. Any information relating to  
76 secret processes, methods of manufacture, or production ob-  
77 tained in the course of such inspection shall be kept confiden-  
78 tial upon request.

79 This section shall not operate to abrogate any of the powers  
80 and duties, as defined by general or special law, of any agency  
81 or political subdivision of the commonwealth.

82 The department may, for the purpose of conducting a  
83 continuous inventory of air pollution source emissions, require  
84 any person owning, operating, or having control of any air  
85 contamination source to register said source with the depart-  
86 ment and to supply such information pertaining to said source  
87 as the department may specify. Registration shall be on a form  
88 supplied by the department and shall be accomplished within a  
89 period of time specified by the department after public notice,  
90 provided said period of time shall be not less than thirty days.

91 Nothing in this section or in any rule or regulation adopted  
92 hereunder shall be construed as relieving, under any circum-  
93 stances, any person, corporation, or political subdivision from  
94 responsibility or liability for any damages which may occur or  
95 for civil or criminal proceedings arising out of or as a result of  
96 any action of said person, corporation, or political subdivision,  
97 regardless of any action of the department, and persons other  
98 than the department shall not acquire actionable rights by  
99 virtue of such action.

100 The department shall maintain and operate such air sampling  
101 stations and devices, make or perform such routine and special

102 examinations, inspections, observations, determinations, labora-  
103 tory analyses, and surveys, maintain such records, and perform  
104 such other acts as it deems necessary to conduct an adequate  
105 air pollution control program within such districts as are  
106 created under this section.

107 The commonwealth shall be reimbursed, as hereinafter pro-  
108 vided, for all appropriations made by the general court and  
109 expended by the department in district programs. The state  
110 treasurer shall issue his warrant requiring the assessors of the  
111 cities and towns of the districts created under this section to  
112 assess a tax in the amount of the sums expended, one-half of  
113 which shall be in proportion to their respective populations;  
114 provided, that any such city or town may in any year  
115 anticipate in whole or in part its assessment, and appropriate,  
116 raise, and deposit the amount thereof with the state treasurer,  
117 and any sum so deposited shall be credited against such  
118 assessment. The assessed valuations of the several cities and  
119 towns shall be the last preceding valuations made for purposes  
120 of apportioning the state tax.

121 Any department, agency, commission, board, authority or  
122 political subdivision of the commonwealth having control and  
123 supervision over any building, installation or other property  
124 shall cooperate with the department of public health in pre-  
125 venting and controlling pollution of the air insofar as the  
126 discharge of any matter from or by such building, installation  
127 or other property may cause or contribute to air pollution.

128 All persons, corporations, departments, agencies, commis-  
129 sions, boards, authorities and political subdivisions of the  
130 commonwealth shall be subject to rules, regulations and stan-  
131 dards adopted by the department under this section. The  
132 department shall have power to order any person, corporation,  
133 department, agency, commission, board, authority or political  
134 subdivision of the commonwealth having control of an air  
135 contamination source, other than an employee, to stop or  
136 abate violation of any of the rules, regulations, or standards  
137 adopted under this section. Said order shall inform the alleged  
138 violator in writing of his right to request, within ten days, a  
139 hearing under the provisions of chapter thirty-A, but if no such  
140 request is made within ten days, the alleged violator shall be

141 deemed to have consented to the order. If said person,  
142 corporation, department, agency, commission, board, authority  
143 or political subdivision requests a hearing, the commissioner or  
144 his designee shall within a reasonable time hold a hearing under  
145 the provisions of chapter thirty-A. The recommendations of the  
146 person holding the hearing, whether said person be the commis-  
147 sioner or his designee, when adopted, or when amended and  
148 adopted, shall be a final decision within the meaning of section  
149 fourteen of chapter thirty-A, subject to judicial review as  
150 therein provided. The commissioner may reissue such order as  
151 is warranted and all orders, permits, or other determinations of  
152 the commissioner, except those consented thereto, shall be  
153 subject to judicial review as provided in chapter thirty-A. If  
154 such order is violated, in any subsequent court enforcement  
155 proceeding the sole questions in issue shall be (1) was the  
156 order violated and (2) is the relief sought appropriate.

157 Any person, corporation or political subdivision of the  
158 commonwealth which violates any rule, regulation, standard or  
159 order adopted or issued by the department under this section  
160 shall be deemed guilty of a misdemeanor, and upon conviction  
161 thereof shall be punished by a fine of not less than two  
162 hundred and fifty and not more than one thousand dollars for  
163 every succeeding offense. For the purpose of this paragraph,  
164 each day or part thereof of violation of such a rule, regulation,  
165 standard or order, whether such violation be continuous or  
166 intermittent, shall be construed as a separate and succeeding  
167 offense. The supreme judicial or superior court, upon the  
168 application of the department, or upon the application of any  
169 person interested, with the approval of the department, may  
170 enforce such rules, regulations, standards and orders, and  
171 restrain the use or occupation of the premises or such portion  
172 thereof as the department may specify until such rules, regula-  
173 tions, standards or orders have been complied with.

174 Notwithstanding any other provisions of this section, the  
175 supreme judicial or superior court may, if the public health,  
176 safety and interest so requires, enjoin any action or remedy  
177 any pollution prior to the final determination of any adminis-  
178 trative proceeding or appeal therefrom. In any action so  
179 brought, any findings of the commissioner shall be prima facie  
180 evidence of the facts found therein.

The first part of the report is devoted to a general description of the country, its position, and its resources. It is then divided into several sections, each dealing with a different aspect of the country's development. The first section deals with the country's geography, its climate, and its natural resources. The second section deals with the country's population, its distribution, and its social conditions. The third section deals with the country's economy, its industries, and its trade. The fourth section deals with the country's government, its laws, and its administration. The fifth section deals with the country's education, its schools, and its universities. The sixth section deals with the country's culture, its arts, and its literature. The seventh section deals with the country's religion, its churches, and its religious practices. The eighth section deals with the country's history, its events, and its heroes. The ninth section deals with the country's future, its prospects, and its challenges. The tenth section deals with the country's present, its current state, and its current needs.

IN SENATE, February 10, 1949.

REPORT

OF THE

COMMISSIONERS OF THE GENERAL LAND OFFICE

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE

ON FEBRUARY 10, 1949.

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